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SUMMARY OF AN EVALUATION OF LEGAL AID IN BRITISH COLUMBIA

September
1984

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SUMMARY
OF
AN EVALUATION
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IN
BRITISH COLUMBIA

Simon Fraser University

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EXECUTIVE SUMMARY

Background to the Evaluation

This report summarizes the results of an evaluation of the direct legal aid services delivered to individual clients through the Legal Services Society of British Columbia during 1982-83. The Legal Services Society is the primary provider of legal aid in the province of British Columbia. The Society provides both direct and indirect legal services. The evaluation only examined direct client services and, as such, is not a complete evaluation of the Legal Services Society. The evaluation was funded by the federal Department of Justice and the Legal Services Society of British Columbia and was conducted by a research team from Simon Fraser University. There was an evaluation advisory committee composed of LSS staff and Board members, representatives from the federal Department of Justice and a representative from the Ministry of the Attorney General of British Columbia.

The questions and issues examined in the evaluation were determined through consultation between the management of the Legal Services Society (LSS), officials of the Department of Justice, and the researchers following a survey of concerns expressed by LSS staff and staff in LSS funded agencies.

Evaluation Questions

The major questions addressed by the evaluation concerned issues surrounding:

- **Patterns of Service Delivery**
    - How are legal aid services delivered in British Columbia?
    - What is the actual pattern of delivery of direct client services? What services are actually provided?
- **Eligibility Standards**
    - What rules does the LSS use for determining eligibility for legal aid?
    - Does the LSS apply its eligibility rules consistently?

- What are the characteristics, in profile, of people receiving legal aid ?
- What are the characteristics, in profile, of rejected legal aid applicants?

- **Accessibility Standards**

  - Are legal aid services accessible to all residents of British Columbia?
    - Are there holes in the system?
    - Are there people who are eligible for legal aid who do not receive it?
  - What is the pattern of utilization of legal aid across the province?
    - Are some parts of the LSS better at delivering services than other parts?
    - Are some legal aid services delivered more equitably than others?
  - Are there ways in which the LSS can improve its accessibility to people in need of services?

- **Impact**

  - What is the impact of providing legal aid lawyer services to individuals?
    - Do individuals receiving legal aid think that legal aid helped them and that the outcomes of their cases were more successful because of legal aid?
  - What is the impact on the individual of being rejected for legal aid?
    - Do rejected applicants obtain legal representation in some other way?
    - Are rejected applicants referred to other sources of legal help?
  - What happens to people who receive legal advice and information at a LSS service office?
    - Do they follow through on advice?
    - Do they find the advice helpful?
  - How well does the LSS reach the general group of people who are technically eligible for legal aid?
    - Specifically, what is the impact of LSS services on divorce hearings and unemployment insurance appeals?

- Quality
    - What is the quality of services provided by the LSS?
        - Are clients satisfied with services?
        - Are staff providing high quality services?
        - Are there ways services could be improved?

The evaluation explored these major issues and many minor issues described in the body of the report. It did not look at all issues surrounding the delivery of legal aid. It was not comprehensive. The evaluation itself raises questions which must be answered by additional research.

Economic Restraint

During the course of the evaluation the provincial government of British Columbia entered a period of restraint budgetting. The LSS receives most of its funding directly from the provincial government. The federal government cost-shares criminal legal aid services, but pays its share directly to the provincial government. LSS's budget was reduced, services were cut. Ultimately many services were restored by court mandate (*Mountain v. Legal Services Society*, [1984] 2 W.W.R. 438 (decided November 10, 1983)).

The evaluation was designed and commenced before the LSS introduced restraint programming in response to reduced funding and, because of this, does not include analysis of some issues which would obviously have been included had the evaluation been designed to test the impact of restraint or to provide a basis for deciding which services to eliminate.

The evaluation does *not* include a costing component. The relative cost of providing different services in different locations was not determined. Neither does the evaluation examine the basic mandate of the Legal Services Society set out in the Legal Services Society Act of 1979. It does not question whether legal aid should exist, what services should be provided, or who should receive them. The evaluation accepted, as a starting point, the range of services and goals of the Legal Services Society which were in place prior to the introduction of restraint programming.

Provincial Task Force on Legal Aid

The government of British Columbia has set up a task force to explore the fundamental questions of what legal services should be provided at public expense and who should be eligible for these services. This evaluation is of value in answering these broad normative questions only in so far as it provides an empirical base for estimating the impact of a reduction in services or the impact of changes in eligibility rules.

Structure of Legal Aid in British Columbia

The Legal Services Society, the primary provider of legal aid in British Columbia, was formed in 1979 by the amalgamation of the Legal Services Commission and the Legal Aid Society. Both of these organizations provided legal services to residents of the province. The amalgamation brought most major public-oriented legal services mechanisms within one organization.

As defined by the Legal Services Society Act, the LSS has the mandate to ensure that:

- services ordinarily provided by a lawyer are afforded to individuals who would otherwise not receive them because of financial or other reasons; and
- education, advice and information about the law are provided for the people of British Columbia.

Services are available when the applicant:

- is a defendant in criminal proceedings that could lead to imprisonment;
- may be confined through civil proceedings;
- is or may be a party in a domestic dispute that affects the applicant's physical or mental safety or health or that of his or her children; or
- has a legal problem that threatens the applicant's family's health or physical or mental safety; or the applicant's ability to feed, clothe or shelter himself or herself or dependents; or the applicant's livelihood.

Services are provided by private counsel under criminal and family tariff schemes and on a pro bono publico basis for other civil problems. In addition, staff counsel employed by the LSS or by LSS funded agencies provide criminal, family and other civil services. Information and

Information and advice services are provided by staff counsel and by paralegals (called legal information counsellors in some offices). The LSS also provides, through a duty counsel system, representation for accused persons held in custody when they first appear at court.

The amalgamation in 1979 produced a complex, hybrid organization with remnants of the two predecessor organizations. The LSS has:

- **Branch Offices** (BO) inherited from the Legal Aid Society;
    - These offices have staff counsel who both handle cases themselves and make tariff referrals. Staff work diretly for the LSS.

- **Community Law Offices** (CLO) inherited from the Legal Services Commission;
    - These offices are staffed by paralegals or legal information counsellors and provide advice, information and some extended services including representation at tribunals and court. These offices are funded annually through contracts and have local community boards.

- **Native Community Law Offices** (NCLO);
    - These offices are community law offices set up in or near concentrations of native populations. They are similar in many respects to Community Law Offices but have, in most instances, lawyers on staff.

- **Area Directors** (AD) inherited from the Legal Aid Society;
    - In many communities too small to support a legal aid office, the LSS enters into an agreement with a local lawyer to take applications for legal aid and make referrals to the private bar under the criminal and family tariff programs or on a pro bono basis.

- **Community Law Offices/Area Directors** (CLO/AD);
    - These are new post amalgamation offices which have characteristics of Branch Offices, Community Law Offices and Area Directors. In these offices, usually formed by giving a CLO the status of an Area Director or by merging a

Branch Office and a CLO, both lawyer services and extensive advice and information services are available.

- Circuits;
  - Some smaller communities are served only periodically, usually when the local provincial court is sitting. Service is primarily provided by staff from nearby offices who travel to the communities, but is sometimes provided by a member of the private bar on a per diem basis.
- Special Projects;
  - The LSS funds or administers special projects that provide legal aid and general legal services. The projects vary from time to time, but during the term of the evaluation included a prison services project and a paralegal project in which a paralegal provided extensive services in a provincial court.

Pattern of Services

The number of direct client services provided by the LSS and its contract offices has increased over the last four years. In 1979 there were about 65,000 client contacts a year. In 1982 there were about 78,000 client contacts or about three contacts per 100 persons in British Columbia. Forty thousand of these contacts involved providing lawyer services to people who could not afford a lawyer and who qualified for legal aid because of the potential seriousness of the consequences of their problems. Sixty-eight percent of these lawyer services were for persons accused of a crime. The majority of direct client services provided by the Legal Services Society were provided through their network of Branch Offices (55 percent). The remaining services were divided between the new post-merger CLO/AD's (26 percent), CLO's (13 percent), and Area Directors (6 percent). Overall, 46 percent of contacts in 1982 involved criminal matters; 26 percent involved family matters; and 28 percent involved other civil matters.

The different types of offices have very distinctive service patterns. Branch Offices and Area Directors primarily saw persons with criminal law problems (58 percent and 63 percent respectively in 1982). In contrast, 73 percent of contacts in CLO's in 1982 were for civil non-family problems. CLO/AD's had a more balanced pattern, with contacts divided up more evenly across the criminal, family, and civil non-family areas. The LSS provides a varied mix of services in its different offices.

All types of offices are primarily providers of direct client services. The vast majority of offices reported that they spent little time on public legal education, on community development or on other outreach activities. The offices provide services to people who come to the office for advice, information or representation. Overall, the system is dominated by criminal problems and, to a much smaller degree, family problems. Other civil services are less frequent and primarily provided through CLO's. Area Directors, in particular, provide few civil non-family services.

Eligibility Standards

Until the advent of restraint budgetting, the LSS used flexible rules for deciding who was eligible for representational services. While guidelines did exist, offices were allowed to make their own decisions and exercise substantial discretion. Under the pressure of budget cuts both the rules for financial eligibility and the rules defining what legal problems would be covered were tightened and restricted. After the Mountain decision coverage rules were moved back partially toward the pre-restraint rules. During both the pre-restraint and the restraint periods the LSS service offices seemed to be applying the financial eligibility rules then in force in a fair and consistent manner across the province.

The rules used to determine whether an applicant is financially eligible for legal aid are restrictive. For example, during the initial restraint period (after October 1, 1983 when LSS made the first program cuts), to be eligible for legal aid a single person in a rural part of the province had to make less than $6,200 per year or $517 a month. A person with three dependents could make up to $900 a month. The maximum income figures were slightly higher in urban areas and highest in areas with a population over 500,000 (Greater Vancouver and Greater Victoria) where a single person could earn $658 a month and still be financially eligible for legal aid.

Legal aid clients are poor and poorly educated. Table 1 contains profiles of criminal, family, and civil legal aid clients. In 1982 criminal legal aid clients were the youngest, most poorly educated, most frequently single and the poorest of the client groups. Rejected applicants were only marginally better off than accepted applicants. The average monthly income for persons rejected for financial reasons was about $1,000 a month. The low average income of those rejected for legal aid lawyer services raises questions of the "middle class gap" or the "working poor" gap. While $12,000 a year may be sufficient income to retain a lawyer for a minor legal problem, can persons earning around $12,000 a year realistically be expected to retain counsel privately when they have a significant or substantial legal problems?

TABLE 1

CLIENT PROFILES, 1982*

PROFILE CHARACTERISTICS	PROBLEM AREA		
	CRIMINAL	FAMILY	CIVIL
Average Age	27 yrs.	32 yrs.	40 yrs.
Education- % less than gr. 10	70%	53%	52%
Martial Status- % married	24%	37%	59%
Average Monthly Income	$500	$670	$754
Average Monthly Expenses	$519	$789	$783

* Year prior to introduction of restraint (October 1, 1982)

Accessibility

While eligibility rules appear to be applied in a fair and even-handed manner, the legal aid system does not provide equitable access to its services. Whether a person receives legal aid in British Columbia depends on where that person lives. The legal aid system in British Columbia is accessibility driven. Services are most readily available in communities staffed with offices and, in the criminal problem area, in communities with courtworker services that refer people to legal aid.

There are major holes in the delivery of criminal legal aid services. Table 2 presents data on the five highest and five lowest criminal legal aid utilization rate areas in the province. It also presents correlations between prosecution rates and criminal legal aid utilization rates province-wide.

Areas served by Area Directors and circuits generally had low utilization rates. Areas served by offices had higher utilization rates. This variation in the utilization of criminal legal aid is particularly problematic. Criminal legal aid is an entitlement program. If a person meets the financial eligibility requirements and the problem coverage requirements (possibility of jail if convicted), that person is entitled to legal aid lawyer services.

The need for criminal legal aid is defined by actions in the courts. Knowing the prosection rate and the poverty in an area should make it possible to predict demand for legal aid. This was not possible in British Columbia. There was effectively no correlation between the prosecution rate of an area, controlling for poverty, and the criminal legal aid utilization rate. There must be unmet need for criminal legal aid. Not all people eligible for criminal legal aid are receiving it (Table 2).

The best predictor of utilization of criminal legal aid was the referral pattern of courtworkers (Native Courtworkers, the Salvation Army, the Elizabeth Fry Society). The use of criminal legal aid was determined by the availability of staff in offices and the referral network that got people to the LSS, not by court prosecution patterns.

There are major holes in the civil non-family legal aid system as well. Table 3 contains a list of the top and bottom five civil non-family utilization rate areas in the province. As can be seen from the table, civil non-family services were effectively unavailable in some parts of the province. Where they were available, utilization was tied to the presence of CLO's and CLO/AD's. Area Directors proved to be a poor vehicle for providing civil non-family services to the people of British Columbia.

Within the overall structure of the LSS, in areas where an office or individual is charged with providing services, Area Directors and circuits seem to be the poorest way of getting services to people. (Not having an Area Director or a circuit is even worse). Offices provide a better level of service than Area Directors or circuits. Different types of offices, Branch Offices, CLO's, and CLO/AD's, provide different types of service. Legal aid is not uniformly available throughout the province.

Individual offices vary in their accessibility. In a site survey of offices, the evaluation found that: some offices were difficult to locate; signs were frequently misleading and sometimes not even visible; office hours varied greatly; few offices maintained evening or weekend hours; and some offices had little or no wheelchair access. Not only does general accessibility to services need to be improved, but specific accessibility needs to be improved at many individual offices.

TABLE 2

UTILIZATION OF CRIMINAL TARIFF* SERVICES

HIGH RATE AREAS			LOW RATE AREAS		
LOCATION	RATE**	OFFICE TYPE	LOCATION	RATE	OFFICE TYPE
Terrace	23.6	AD	Bella Bella	1.4	Circuit
Williams Lake, Quesnel	19.3	Branch Office CLO/AD	Fort Nelson	2.4	AD
Smithers	19.0	CLO/AD	Dease Lake, Cassiar	2.6	Circuit
Prince George	18.6	Branch Office	Nakusp	2.2	AD
New Hazelton	17.8	NCLO	Trail	3.0	AD

* Including staff lawyer cases

** Rate per 1,000 population

CORRELATIONS BETWEEN UTILIZATION OF CRIMINAL LEGAL AID SERVICES AND PROSECUTION RATES CONTROLLING FOR POVERTY**

	Prosecution Rates for Violent Offences	Prosecution Rates for property offences
Utilization rate for criminal tariff* services	- 0.14	- 0.14
Utilization rate for all criminal matters	- 0.17	- 0.16

* Including staff lawyer cases

** The following variables were controlled for in the partial-correlations: rate of persons on welfare; rate of males on welfare; rate of females on welfare; rate of heads of households on welfare.

TABLE 3

UTILIZATION OF CIVIL NON-FAMILY SERVICES, 1982

HIGH RATE AREAS			LOW RATE AREAS		
LOCATION	RATE*	OFFICE TYPE	LOCATION	RATE*	OFFICE TYPE
Smithers	100.4	CLO/AD	Bella Bella	0.0	Circuit
Merritt	77.6	NCLO	Golden	0.0	AD
Powell River	45.9	CLO/AD	Nakusp	0.2	AD
New Hazelton	44.3	CLO	Gibsons	0.3	AD
Abbotsford	40.5	CLO/AD	Revelstoke	0.4	AD

* Rate per 1,000 population

Impact

A survey of people who received legal aid found that the vast majority were satisfied with the services they received; believed that those services had a positive impact; and believed that their own cases were successful. Rejected applicants for lawyer services are given summary advice when they are rejected. Rejected applicants and those who had sought advice and information alone both said that they found the advice and information they received helpful.

Most rejected legal aid applicants and most people who had sought advice only were provided with specific information. Most were also referred to other sources of aid. For example, applicants for family tariff services who were rejected for financial reasons were referred to the Lawyer Referral Service (where a person can talk to a lawyer for a short period at a very low cost) 36 percent of the time; to the private bar directly 32 percent of the time; and to other agencies 14 percent of the time. Only 18 percent of the time were people not referred to other sources of help. Over 70 percent of the people referred elsewhere for additional help followed through on the referral.

The LSS offices not only provide direct client services, they fit into a more general network of agencies and individuals providing legal services. People frequently come to LSS office on referral. They also leave LSS offices with referrals.

When a person is rejected for lawyer services by legal aid for financial reasons, the presumption is that they will be able to retain counsel privately. This turned out not to be the case in the family law area. Seventy-five percent of people rejected for financial reasons went unrepresented, though about 36 percent saw a lawyer once through the Lawyer Referral Service. Eighty-nine percent of those rejected because their specific problem was not covered (using reduced coverage rules under restraint) went unrepresented.

In the survey of people filing for divorce during the pre-restraint period (when all divorces of financially eligible persons were covered), 12 percent of financially eligible persons went unrepresented; 40 percent of the people who would have been financially ineligible for legal aid went unrepresented. Of those people who were financially eligible, 58 percent were represented by a legal aid lawyer and 29 percent were represented by a privately retained lawyer. There is strong evidence that there is a drop in legal representation among people who are not eligible for legal aid. In the family law area, it cannot be presumed that persons whose financial position would exclude them from legal aid will obtain private representation.

The evaluation found evidence that the pattern may be different in the criminal legal aid area. A sub-study run in the City of Vancouver found that people rejected for financial and coverage reasons were represented at a fairly high rate at the provincial court. Seventy percent of the people who were ruled financially ineligible for legal aid retained counsel privately. Forty-three percent of people who were financially eligible but rejected for problem coverage reasons retained counsel privately. An additional 29 percent went to the University of British Columbia Law Clinic and were represented by law students. Representation rates for rejected applicants, at least in Vancouver, were much higher in the criminal law area than in the family law area.

As discussed in the section on accessibility, the pattern of services varies across the province. There is unmet need for criminal legal aid and there are clear holes in the civil non-family legal aid system.

The reach of the legal aid system in the civil non-family area was further analyzed in a sub-study of 100 persons appealing decisions of the Canada Employment and Immigration Commission (UIC appeals). UIC appeals are civil matters for which any resident of British Columbia is entitled to go to a LSS Branch Office or LSS funded CLO, NCLO, or CLO/AD and receive advice. In addition, most UIC appellants (about 75 percent) were found to be financially eligible for legal aid and would have been eligible for tribunal representation. Only one out of the 100 appellants, however, was found to have been represented at his appeal hearing and he had been represented by someone from his union. Of the remaining persons, only 9 percent said they had considered going to a legal aid service office. Only one had actually gone to an office and picked up a pamphlet. The reach of legal aid into UIC matters at the appeal level is 1 percent of the eligible population. The reach may be greater for persons who consider appealing, but do not.

The reach of legal aid in the family law area was greater (in the pre-restraint period), though not complete. In the divorce study, 58 percent of people eligible for legal aid lawyer services were represented by counsel paid for through legal aid. Twenty-nine percent retained counsel privately, but the vast majority of these people reported financial hardship in doing so.

The general pattern found in the evaluation was one in which services, when available, seemed to have a positive impact, but in which the availability of services was limited.

Quality

Quality is far more difficult to assess. An ideal quality study would involve the review of actual case files by experts and the assessment of those files according to generally accepted practice standards. Such a study is a major undertaking in and of itself and was not within the scope of this evaluation.

The evaluation used several indirect measures of quality, most of which proved positive. People who came to legal aid for help said they were satisfied with the services they received in the offices, though obviously they might not be in a position to know whether the services they received were of high legal quality or not. Clients who had been referred to the private bar similarly believed that the outcomes of their cases had been successful most of the time.

Ultimately, the quality of legal aid depends to a large extent on the skills of the members of the private bar who take referrals. There is no reason to believe that current skill levels are not acceptable and that the services are not of good quality. In one direct comparison of over 15,000 cases handled by staff counsel and members of the private bar who take criminal legal aid cases, the evaluation found that staff counsel clients received better outcomes, at least from a defendant's perspective. Staff counsel clients, while adjudged guilty at the same rate as private counsel legal aid clients (72% of cases), were incarcerated at a rate 12 percent below the other group. Staff counsel clients received jail terms 30% of the time; private bar legal aid clients were sentenced to jail 42% of the time. While this was not a controlled study, it does indicate that the lawyer services directly controlled by the LSS are most likely of high quality.

The difference in incarceration rates deserves addtional comment. the study was not experimentally controlled; completed cases were analyzed. It is possible that the type of cases handled by staff counsel were different from the cases handled by the private bar on referral. Staff counsel in interviews indicated that they had more difficulty referring complex and serious cases to the private bar than simple cases. They indicated that the difficulty related to the tariff system in British Columbia where a lawyer is paid primarily for specific court proceedings and not for the number of hours spent preparing a case. while staff counsel indicated they handled more serious cases than the private bar, this cannot be taken as true without further checks. It could be that the private bar cases are more serious and more likely to result in a jail sentence.

The lower incarceration rate might also be tied to staff lawyers' greater knowledge and familiarity with the criminal court system and the people working within the system or to the fact that staff counsel cases ended in a guilty plea more frequently than private bar cases (about 6% more frequently). Staff cases were handled differently than private bar cases.

Whatever the cause of the difference in incarceration rates, there was no indication in the evaluation that there were major quality problems. The British Columbia legal aid plan relied primarily on services of members of the private bar and as such is dependent on the skills of those lawyers willing to take referrals.

Paralegal services, the primary type of services available in CLO's and a major type of service in CLO/AD's, were judged of high quality by supervising lawyers. Paralegals who were interviewed, however, expressed the desire for more training.

While the evaluation did not include a direct quality assessment, the indirect measures suggest no problems in the quality of legal services provided through the Legal Services Society.

RECOMMENDATIONS

While the evaluation found that the LSS was doing a good job of providing services within the limitations of the resources available to it, the evaluation results do lead to a series of recommendations, some of which would require increased resources for implementation. Some recommendations, might reduce costs. All recommendations are based on the premise that equitable provision of the legal aid services defined in the Legal Services Society Act is the goal of the legal aid system in British Columbia.

RECOMMENDATION 1 - IMPROVE SERVICES TO SMALL COMMUNITIES AND RURAL AREAS

Small communities and rural areas of British Columbia are under served by the LSS. Providing services to rural areas is potentially very expensive. The current Area Director system is not sufficient. It is recommended that the government provide a large fund for experimenting with mechanisms for providing cost-effective services to rural areas. It is not within the fiscal means of the LSS to develop better ways of providing rural services. The most natural source of such funds is the federal government since the results of such research would address problems of legal aid delivery in many parts of Canada.

RECOMMENDATION 2 - IMPROVE DUTY COUNSEL SERVICES

Under the current system duty counsel services are available to persons arrested and kept in custody. Duty counsel meet the accused prior to court appearance and act for the accused at the bail hearing. If time permits, duty counsel may provide services to unrepresented accused who are not in custody. The actual detailed pattern of duty counsel services varies from court to court. Since criminal legal aid services are not equally available across the province, coverage might be greatly improved if duty counsel services were expanded and duty counsel were given added responsibility to take applications for legal aid or screen persons appearing at court for legal aid eligibility. Such a change of duties might require increasing the number of persons providing duty counsel in a court or sending a secretary/legal assistance along with the lawyer who is acting as duty counsel.

RECOMMENDATION 3 - EXPAND AND EVALUATE COURTWORKER SERVICES

The utilization of criminal legal aid is heavily dependent on referrals from non-Legal Services Society courtworker services such as the Native Courtworkers, the Salvation Army and the Elizabeth Fry Society. These services have a clear and important function in the legal aid system. They may be a cost-effective way of helping to ensure that persons eligible for criminal legal aid receive it. These services should be evaluated for their cost-effectiveness as funnels to legal aid, and expanded if the results are positive. Such a move is beyond the mandate of the Legal Services Society, but should be undertaken by the federal or provincial government in conjunction with the courtworker services.

RECOMMENDATION 4 - EXPAND CIVIL LEGAL AID

Civil non-family legal aid, in particular, is not distributed equitably across the province. It is available primarily where offices are located and mostly from Community Law Offices or post-merger CLO/AD offices. If the Legal Services Society is committed to the provision of civil legal aid it must develop mechanisms to make it more available. Possible mechanisms include using more paralegals or mandating to staff lawyers the types of cases they should handle. With the decentralized structure of the LSS, procedures would have to be developed to ensure compliance if staff are required to do more civil non-family work. In either case if criminal and family services are maintained, expanded civil non-family services would require increased resources.

RECOMMENDATION 5 - IMPROVE OFFICE ACCESSIBILITY

Service levels drop rapidly between communities with offices and those without. Even in communities with offices, the accessibility of those offices varies greatly. There are several things the LSS could do to improve the general accessibility of its offices. Office signs are sometimes difficult to see or even find. Signs frequently contain no information that would indicate that legal aid or even that legal services are available. Office hours are sometimes limited. Most offices close at lunch and few have evening or weekend hours. The offices are generally inaccessible to the working poor. They are closed when people are off work. Wheelchair access is not good in many offices. There is definite room for improvement in signage, office hours, and handicapped access.

RECOMMENDATION 6 - INCREASE LOCAL RESPONSIBILITY FOR SERVICES

As it exists now, local offices serve the community in which they are located and those persons from other communities who come into the office. Head Office maintains a circuit for some remote communities. Several local offices have developed their own local circuits to bring legal aid to remote communities within self-defined service areas. The LSS has not, however, divided the province into service regions and assigned responsibility for bringing services to the people within them. With the mixture of office types, some of them on contract, it would not necessarily be easy to develop local responsibility centres. Division of the province into service regions and formalization of responsibility for bringing services to people within these regions, difficult as it would be, might go a long way towards filling the holes in the delivery network.

RECOMMENDATION 7 - INVESTIGATE STAFF-HANDLED LEGAL AID CASES

In an analysis of about 15000 criminal legal aid cases, the evaluation found a dramatic difference between the incarceration rates for clients represented by staff counsel and those represented by members of the private bar. While staff counsel clients and private counsel clients have the same guilty outcome rates, staff counsel client incarceration rates are 12 percent below private counsel client incarceration rates. The analysis of cases was not an "experiment". There may be differences between the cases handled by staff lawyers and the private bar which produced the differences in incarceration rates. The private bar may handle more serious cases. While the evaluation could not statistically control for the differences between staff and private cases, the large difference in incarceration rates warrants further investigation. The LSS should consider, at a minimum, a detailed provincial analysis of criminal legal aid cases handled by staff lawyers and members of the private bar which compares outcomes for specific charged offences. If differences are still found the LSS should consider a general province-wide experiment in which it randomly assigns some cases to staff counsel and some to members of the private bar in order to determine, in a scientifically controlled sense, whether there are true differences in the outcomes of cases retained in office and referred on tariff to private counsel.

RECOMMENDATION 8 - REVIEW SKILLS AND TRAINING OF PARALEGALS

The evaluation found that paralegals engage in wide-ranging activities. They are the mainstay of the civil legal aid system. The paralegals voice concerns about their level of training. While the LSS appears to have a well developed training program, it is not directed solely to paralegals and legal information counsellors and is not mandatory. The LSS should review its training program in light of the concerns of paralegals and consider alternative training methods or, alternatively, consider development of procedures for testing paralegals' skill levels to determine who needs training and in what areas training is needed. The Board may wish to reconsider its policy that training is not mandatory. It should be noted that lawyers supervising paralegals' work generally found it to be quite good.

These recommendations should be interpreted from the perspective of the whole evaluation. The evaluation found that the LSS is doing a very good job of providing services within the limitations of the resources available to it. The legal aid system in British Columbia cannot, however, be considered complete. There are areas of the province where few services are available. The delivery of services must be broadened to produce an equitable legal aid system.

RESUME DE L'EVALUATION DE L'AIDE JURIDIQUE EN COLOMBIE-BRITANNIQUE

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RESUME DE L'EVALUATION DE L'AIDE JURIDIQUE EN COLOMBIE-BRITANNIQUE

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RESUME A L'INTENTION DE LA DIRECTION

A l'origine de l'évaluation

Le présent rapport constitue un résumé des résultats d'une évaluation en ce qui concerne les services d'aide juridique rendus directement aux clients en 1982-1983 au moyen de la société des services juridiques de la Colombie-Britannique. La société des services juridiques, une institution principale quant à la prestation d'aide juridique dans cette province pourvoit à la fois des services directs et indirects. Cette évaluation, cependant, n'a porté que sur les services rendus directement à la clientèle, de sorte que l'étude ne saurait constituer une évaluation complète de la société. La réalisation de cette évaluation a été possible grâce à une équipe de recherche de l'université Simon Fraser tandis que son financement a été porté par le Ministère fédéral de la Justice et la Société des services juridiques de la Colombie-Britannique.

Le choix des questions étudiées dans l'évaluation réside dans la délibération des dirigeants de la Société des services juridiques (SSJ), des porte-paroles du ministère de la Justice et l'équipe de recherche à la suite d'une enquête portant sur les problèmes soulevés par le personnel de la SSJ et des organismes financés par la SSJ.

Questions posées

Les principales questions soulevées par l'évaluation portaient sur les domaines suivants:

- **Structure de la prestation des services**
  - De quelle manière les services d'aide juridique sont-ils assurés en Colombie-Britannique?
  - Quelle est la vraie structure quant à la prestation des services à la clientèle? En effet, quels sont les services offerts?
- **Normes d'admissibilité**
  - Quelles règles la SSJ suit-elle pour déterminer l'admissibilité à l'aide juridique?
  - La SSJ applique-t-elle ses règles d'admissibilité de façon uniforme?

- Quelles sont les éléments caractéristiques des gens bénéficiants de l'aide juridique?
- Quelles sont les éléments caractéristiques des personnes dont la demande d'aide juridique est rejetée?

- Normes d'accessibilité

- Les services d'aide juridique sont-ils accessibles à tous les habitants de la Colombie-Britannique?
    - Y a-t-il des lacunes dans le système?
    - Y a-t-il des gens qui sont admissibles à l'aide juridique mais qui n'en bénéficient pas?
- Quelle est la structure d'utilisation de l'aide juridique dans la province?
    - Y a-t-il une partie de la SSJ qui sert mieux à la prestation des services que d'autres parties?
    - Les services de l'aide juridique sont-ils assurés de façon équitable?

- Conséquences

- Quelles sont les conséquences de la prestation des services d'un avocat-conseil de l'aide juridique pour les personnes qui en bénéficient?
    - Les personnes qui bénéficient de l'aide juridique pensent-elles que cette aide leur a été profitable et que le règlement de leur affaire a été à leur avantage grâce à l'aide juridique?
- Quelles sont les conséquences pour les personnes dont la demande d'aide juridique est rejetée?
    - Les personnes qui ont vu leur demande refusée ont-elles recours aux services d'autres avocats?
    - Les personnes qui ont vu leur demande refusée se voient-elles diriger vers d'autres sources d'aide juridique?
- Qu'arrive-t-il aux personnes qui reçoivent des conseils et de l'information juridiques dans un bureau de la SSJ?
    - Suivent-elles les conseils reçus?
    - Trouvent-elles les conseils utiles?

- Dans quelle mesure la SSJ atteint-elle la population générale admissible à l'aide juridique en vertu des règlements?
    - En particulier, quelle est l'incidence des services de la SSJ sur les audiences de divorce et les appels d'assurance-chômage?

- **Qualité**

- De quelle qualité sont les services qu'offrent la SSJ?
    - Les clients sont-ils satisfaits de ces services?
    - Le personnel offre-t-il des services de haute qualité?
    - Comment ces services pourraient-ils être améliorés?

L'évaluation a été portée sur les grandes questions énumérées ci-dessus, et aussi sur plusieurs questions secondaires qui seront analysées dans le corps du rapport. Elle n'a pas étudié tous les problèmes liés à la prestation de l'aide juridique et pour cette raison, il ne s'agit pas d'une évaluation complète. Les questions soulevées par l'évaluation même doivent donner lieu à des recherches supplémentaires.

Compressions budgétaires

Pendant le déroulement de l'évaluation, le gouvernement provincial de la Colombie-Britannique a subit une période de compressions budgétaires. Or la plupart des fonds de la SSJ proviennent directement du gouvernement provincial. Le gouvernement fédéral assume une part du coût de l'aide juridique criminelle, mais cette part est versée directement au gouvernement provincial. La SSJ a donc vu son budget comprimé, ses services réduits. Finalement, plusieurs services ont été rétablis par ordre du tribunal (Mountain C Legal Services Society, [1984] 2 W.W.R. 438 (décision du 10 novembre 1983)).

L'évaluation a été élaborée et entreprise avant que la SSJ n'introduise son programme de restrictions découlant de la diminution de son budget et, par conséquent, elle exclut l'analyse de certaines questions qui évidemment auraient été incluses dans l'évaluation si celle-ci avait été conçue pour mesurer l'incidence des restrictions ou pour fournir des données sur lesquelles appuyer le choix des services à supprimer.

L'évaluation ne comprend pas de section sur la répartition des coûts. Les coûts relatifs à la prestation des différents services d'un endroit à l'autre n'ont pas été déterminés. L'évaluation ne porte pas non plus sur l'examen du mandat fondamental de la Société des services juridiques tel qu'il a été décrété par la Legal Services Society Act de 1979. Enfin, l'évaluation ne remet pas non plus en question le bien-fondé de l'aide juridique, ne s'intéresse pas aux services qu'il conviendrait d'offrir et ne se demande pas qui doit en bénéficier. Au départ, l'évaluation s'est appuyée sur la gamme de services et sur les objectifs de la Société des services juridiques qui étaient en vigueur avant l'adoption du programme de compressions budgétaires.

Groupe de travail provincial sur l'aide juridique

Le gouvernement de la Colombie-Britannique a formé un groupe de travail ayant pour mandat d'examiner les deux questions fondamentales suivantes: quels services juridiques doivent être offerts à même les fonds publics et qui doit être admissible à ces services? Dans sa réponse à ces grandes questions normatives, l'évaluation ne peut être valable que si elle fournit des données empiriques propres à mesurer l'incidence de la réduction des services ou la conséquence des changements apportés aux critères d'admissibilité.

Organisation de l'aide juridique en Colombie-Britannique

La Société des services juridiques, principale institution quant à la prestation d'aide juridique en Colombie-Britannique, a vu le jour en 1979 par suite de la fusion de la Commission des services juridiques et de la Société de l'aide juridique. Ces deux organismes offraient à l'époque les services juridiques aux habitants de la province. La fusion eut pour résultat de réunir au sein d'un même organisme la plupart des principaux services juridiques destinés à la population.

Aux termes de la Legal Services Society Act, la SSJ a le mandat suivant:

- faire en sorte que les services assurés ordinairement par un avocat soient accordés aux personnes qui ne pourraient autrement en bénéficier pour des raisons financières ou autres;
- faire en sorte que des services d'éducation, de conseils et d'information au sujet de la loi soient accordés à la population de la Colombie-Britannique.

Les services sont accordés dans les cas suivants:

- le requérant est un accusé au criminel dans une poursuite susceptible de mener à une peine d'emprisonnement;

- le requérant est un défendeur au civil dans une poursuite susceptible de mener à l'emprisonnement;
- le requérant est impliqué dans un conflit familial susceptible d'affecter sa sécurité physique ou mentale, sa santé ou celle de ses enfants;
- le requérant a un problème juridique qui menace la santé ou encore la sécurité physique ou mentale de sa famille, qui menace l'aptitude du requérant à se nourrir, s'habiller ou se loger, ou qui menace la faculté de subsistance du requérant.

Les services sont assurés par un avocat privé dans le cadre d'un barème de tarifs au criminel et à la famille, ou dans le cadre du pro bono publico pour les autres affaires civiles. Par ailleurs, l'avocat-conseil qu'emploie la SSJ ou un organisme financé par la SSJ fournit des services dans les affaires pénales, de la famille ou autres affaires civiles. Les services d'information et de conseils juridiques sont assurés par les avocats-conseils du Service et par le personnel parajuridique (qui porte le nom de conseiller juridique dans certains bureaux). La SSJ, grâce à un système d'avocats commis d'office, assure également la représentation des accusés en détention préventive qui comparaissent pour la première fois devant la cour.

La fusion de 1979 a entraîné une organisation complexe et hybride qui garde l'empreinte des structures des deux organismes antérieurs. L'organisme de la SSJ comprend:

- **Des bureaux de district** (BD), hérités de la Société d'aide juridique;
  - Ces bureaux disposent d'avocats-conseils qui traitent eux-mêmes les affaires ou effectuent des renvois dans le cadre du barème de tarifs. Ces avocats travaillent directement pour la SSJ.
- **Des bureaux d'aide juridique communautaires** (BJC), hérités de la Commission des services juridiques;
  - Ces bureaux comprennent du personnel parajuridique ou des conseillers juridiques qui donnent de l'information ou des conseils, et qui assurent certains services extensifs comme la représentation devant les tribunaux et la cour. Ces bureaux sont financés annuellement au moyen de contrats et sont administrés par un conseil communautaire local.

- **Des bureaux d'aide juridique communautaires aux autochtones** (BAJCA);
  - Ces bureaux sont des bureaux juridiques communautaires situés à l'intérieur ou à proximité d'un secteur à forte concentration d'autochtones. Ils ressemblent à bien des égards aux bureaux juridiques communautaires mais ils disposent, dans la plupart des cas, d'avocats permanents.

- **Des directeurs de secteur** (DS), hérités de la Société d'aide juridique;
  - Dans de nombreuses agglomérations, trop petites pour avoir un bureau d'aide juridique, la SSJ conclut une entente avec un avocat régional qui reçoit les demandes d'aide juridique et qui fait les renvois à des avocats du secteur privé dans le cadre des programmes de tarifs au criminel et à la famille ou dans le cadre du programme pro bono.

- **Des bureaux juridiques communautaires - Directeurs de secteur** (BJC/DS);
  - Ces bureaux sont nés après la fusion et ils possèdent des caractéristiques des bureaux de district, des bureaux juridiques communautaires et des bureaux des directeurs de secteur. Dans ces bureaux, que l'on forme le plus souvent en donnant à un bureau juridique communautaire le statut de celui du directeur de secteur ou en fusionnant un bureau de district et un bureau juridique communautaire, on peut se prévaloir de services d'avocat ainsi que de toute une gamme de services d'information et de conseils.

- **Services itinérants;**
  - Certaines petites localités ne sont desservies que de façon périodique, au moment où siège la cour provincial locale. Les services sont assurés surtout par le personnel des bureaux avoisinants qui se déplace pour se rendre dans ces localités, mais quelquefois les services sont assurés par un avocat du secteur privé qui travaille à forfait d'après un tarif à la journée.

- **Projets spéciaux;**
  - La SSJ finance ou administre des projets spéciaux de prestation d'aide juridique ou de services juridiques généraux. Les projets varient avec le temps mais pendant la durée de l'évaluation, il y avait un projet sur les services assurés dans les prisons et un projet parajuridique de services extensifs dans une cour provinciale.

Structure des services

Au cours des quatres dernières années, le nombre de services fournis directement à la clientèle par la SSJ et par ses mandataires a augmenté. En 1979, on comptait environ 65 000 contacts avec les clients par an. En 1982, on est passé à 78 000 contacts avec des clients, ce qui revient à environ trois contacts pour 100 habitants en Colombie-Britannique. Sur ces contacts, il y en a eu 40 000 qui ont servi à fournir des services d'avocats à des gens qui étaient incapables de payer ces services eux-mêmes et qui ont eu droit à l'aide juridique à cause de graves conséquences que pouvaient entraîner leur problème. Soixante-huit pour cent de ces services d'avocat ont été utilisés par des personnes accusées d'un crime. La majorité des services fournis directement à la clientèle de la Société des services juridiques émanaient du réseau de bureaux de district (55%). Les autres services ont été assurés en partie par les nouveaux BDC/DS datant après la fusion (26%) par les bureaux juridiques communautaires (13%) et par les directeurs de secteur (6%). Au total, 46% des contacts de 1982 avaient trait à des affaires criminelles, 26% relevaient de la section famille et 28% étaient liés à d'autres causes civiles.

Chaque différent type de bureau a une structure de services qui lui est propre. Les bureaux de district et les directeurs de secteur se sont occupés surtout de personnes qui avaient des problèmes au criminel (58% et 63% respectivement en 1982). Par ailleurs, 73% des contacts dans les bureaux juridiques communautaires avaient trait en 1982 à des problèmes civils qui ne relèvent pas de droit de la famille. Les BJC/DS ont traité des cas plus variés et leurs contacts appartenaient plus ou moins également aux catégories suivantes: le criminel, la famille et le civil non-familial. La SSJ offre des services divers dans chaque bureau.

Toutes ces catégories de bureaux offrent surtout des services fournis directement à la clientèle. La vaste majorité des bureaux ont signalé qu'ils consacraient très peu de temps à l'éducation de la population dans le domaine juridique, au développement communautaire ou à d'autres activités d'expansion. Les bureaux offrent des services aux gens qui s'y présentent pour demander des conseils, de l'information ou une représentation. Dans l'ensemble, ce sont les affaires criminelles qui dominent et, dans une moindre mesure, les affaires de la famille. Les autres services au civil, beaucoup moins fréquents, sont pris en charge le plus souvent par les bureaux juridiques communautaires. Les directeurs de secteur, en particulier, s'occupent rarement d'affaires civiles autres que celles de la famille.

Normes d'admissibilité

Avant l'instauration des compressions budgétaires, la SSJ avait recours à des critères assez souples pour décider quelles personnes pourraient avoir accès aux services de représentation. Certes, il existait des lignes directrices mais les bureaux avaient le droit de prendre leurs propres décisions et à user de certains pouvoirs discrétionnaires. En raison des problèmes que causent les compressions budgétaires, toutefois, les critères relatifs à l'admissibilité financière ou à la recevabilité de l'affaire se sont resserrés et sont devenus beaucoup plus stricts. Après le jugement de l'affaire Mountain, les critères de recevabilité sont revenus en partie à ce qu'ils étaient avant les compressions. Quoi qu'il en soit, la SSJ semble avoir appliqué les critères d'admissibilité en vigueur de façon équitable et uniforme dans toute la province, que ce soit pendant la période d'avant les restrictions ou après.

Les critères qui servent à déterminer si le requérant est financièrement admissible à l'aie juridique sont restrictifs. Par exemple, au début de la période de compressions (après le 1er octobre 1983 au momemnt où la SSJ a apporté les première coupures au programme), il fallait qu'une personne célibataire vivant en milieu rural gagne moins de 6 200 $ par an ou 517 $ par mois pour être admissible à l'aide juridique. Quelqu'un ayant trois personnes à charge pouvait gagner jusquà 900 $ par mois. Les revenus maximums étaient légèrement plus élevés dans les régions urbaines et plus élevés encore dans les grands centres de plus de 500 000 habitants (la communauté urbaine de Vancouver et celle de Victoria) où une personne célibataire pouvait gagner 658 $ par mois et être quand même admissible à l'aide juridique.

En règle générale, les clients de l'aide juridique sont pauvres et peu instruits. Le tableau 1 contient les éléments caractéristiques des clients de l'aide juridique au criminel, à la famille et au civil. En 1982, les clients de l'aide juridique au criminel constituaient les plus jeunes, les moins instruits et les plus pauvres parmi tous les autres groupes de clients. C'était en général des célibataires. Les personnes dont la demande a été rejetée étaient à peine plus à l'aise que les demandeurs reçus. Le revenu mensuel moyen des personnes dont la demande a été rejetée pour des raisons financières était d'environ 1 000 $ par mois. Le revenu peu élevé des demandeurs non-reçus pour les services d'avocat-conseil soulève le problème de la séparation de la "classe moyenne" et des "ouvriers en-deçà du seuil de pauvreté" des autres classes sociales. Avec un salaire de 12 000 $ par an, il est peut-être possible de retenir les services d'un avocat pour régler un litige mineur mais il est peu probable qu'une personne qui gagne un salaire si peu élevé puisse se permettre d'aller voir un avocat si elle se trouve aux prises avec un problème juridique important.

TABLEAU 1

ELEMENTS CARACTERISTIQUES DE LA CLIENTELE, 1982*

CARACTERISTIQUES	DOMAINE JURIDIQUE		
	CRIMINEL	FAMILLE	CIVIL
Age moyen	27 ans	32 ans	40 ans
Niveau d'études			
% de moins de 10^{e} année	70%	53%	52%
Situation matrimoniale			
% de personnes mariées	24%	37%	59%
Revenu mensuel moyen	500 $	670 $	754 $
Dépenses mensuelles moyennes	519 $	789 $	783 $

* Année précédant l'introduction des compressions (le 1er octobre 1982)

Accessibilité

Si d'un côté les critères d'admissibilité semblent avoir été appliqués de façon équitable et uniforme, le système d'aide juridique n'offre pas par ailleurs aux gens un accès équitable à ses services. L'accès à l'aide juridique en Colombie-Britannique dépend dans une large mesure de l'endroit où l'on vit. Les services sont plus facilement accessibles dans les localités qui disposent d'un bureau et, dans le cas des affaires criminelles, dans les agglomérations où les travailleurs sociaux des tribunaux renvoient les gens à l'aide juridique.

Il existe des lacunes importantes dans la prestation des services d'aide juridique au criminel. Le tableau 2 présente des données sur les cinq endroits qui ont le plus souvent recours à l'aide juridique criminelle et sur les cinq endroits qui ont le moins souvent recours à cette aide juridique dans la province. Le tableau fait également un rapprochement entre le pourcentage des poursuites judiciaires et celui de l'utilisation de l'aide juridique criminelle dans la province.

Les endroits desservis par les directeurs de secteur et les services itinérants ont en général un taux d'utilisation faible. Les endroits desservis par des bureaux ont des taux d'utilisation plus élevés. Cet écart dans l'utilisation de l'aide juridique criminelle pose des problèmes. Cette aide juridique est un programme universel. Si une personne répond aux critères d'admissibilité financière et de recevabilité de l'affaire (possibilité de peine de prison si convaincu d'un crime), cette personne a droit à l'aide d'un avocat du service juridique.

La nécessité de l'aide juridique criminelle est mise en évidence par le nombre d'actions en justice. A partir du pourcentage de poursuites judiciaires et du niveau de pauvreté d'une région donnée, il devrait être possible de prédire la demande en matière d'aide juridique. Or ce n'est pas le cas en Colombie-Britannique. Il n'y avait, en effet, aucune corrélation entre le pourcentage des poursuites judiciaires d'une région, avec contrôle du facteur pauvreté, et le pourcentage d'utilisation de l'aide juridique criminelle. On en déduit, par conséquent, que la province ne répond pas à la demande d'aide juridique criminelle. Les personnes admissibles à l'aide juridique criminelle n'obtiennent pas toutes l'aide voulue (tableau 2).

Le meilleur facteur de prédiction de l'utilisation de l'aide juridique criminelle se trouve dans les pratiques de renvoi adoptées par les travailleurs sociaux des tribunaux (travailleurs autochtones, Armée du salut, Elizabeth Fry Society). On a pu déterminer l'ampleur de l'utilisation de l'aide juridique criminelle à partir de la présence du personnel dans les bureaux et des mécanismes de renvoi qui permettent aux gens d'aboutir à la SSJ, et non pas au moyen de poursuites judiciaires.

Il existe également de graves lacunes dans le système d'aide juridique civile non-familiale. Le tableau 3 contient la liste de cinq endroits de la province où on a le plus recours à l'aide juridique civile non-familiale et de cinq endroits où on y a le moins recours. Comme on peut le voir dans le tableau, les services d'aide juridique civile non-familiale n'existaient pas en réalité dans certaines régions de la province. Lorsque ces services existaient, leur utilisation était liée à la présence d'un bureau juridique communautaire ou d'un BJC/DS. Les directeurs de secteur se sont avérés inefficaces pour offrir des services d'aide juridique civile non-familiale aux habitants de la Colombie-Britannique.

Au sein de l'organisation globale de la SSJ, ce sont les directeurs de secteur et les services itinérants qui semblent les moins efficaces pour desservir les gens, aux endroits où il y a effectivement une personne ou un bureau chargé d'assurer la prestation. (L'absence du directeur de secteur ou de services itinérants rend la situation encore plus mauvaise.) Les bureaux offrent un meilleur service que les directeurs de secteur ou les services itinérants. Les différentes catégories de bureau, les bureaux de district, les bureaux juridiques communautaires et les BJC/DS assurent des services différents. L'aide juridique n'est donc pas accessible de façon uniforme dans toute la province.

La facilité d'accès aux différents types de bureau varie énormément d'une bureau à l'autre. Dans une enquête portant sur les lieux où se trouvent les bureaux, on a pu en arriver à l'évaluation suivante: certains bureaux sont difficiles à trouver; les plaques prêtent souvent à confusion et quelquefois ne sont même pas visibles; les heures de bureau sont extrêmement variables; rares sont les bureaux qui sont ouverts le soir ou pendant la fin de semaine; certains bureaux sont mal équipés ou ne sont pas équipés du tout pour l'accès des handicapés. Il s'ensuit qu'il faut non seulement améliorer l'accessibilité aux services en générale mais également répondre à des besoins particuliers d'accessibilité dans bon nombre de ces bureaux.

TABLEAU 2

UTILISATION DE L'AIDE JURIDIQUE TARIFEE - SECTION CRIMINELLE*

TAUX ELEVES			TAUX PEU ELEVES		
LIEU	TAUX**	TYPE DE BUREAU	LIEU	TAUX	TYPE DE BUREAU
Terrace	23,6	DS	Bella Bella	1,4	Itinérant
Williams Lake, Quesnel	19,3	Bureau de district BJC/DS	Port Nelson	2,4	DS
Smithers	19,0	BJC/DS	Dease Lake, Cassiar	2,6	Itinérant
Prince George	18,6	Bureau de district	Nakusp	2,2	DS
New Hazelton	17,8	BAJCA	Trail	3,0	DS

* En incluant les affaires des avocats du Service

** Taux pour une population de 1 000

CORRELATIONS ENTRE L'UTILISATION DES SERVICES D'AIDE JURIDIQUE CRIMINELLE ET LES TAUX DE POURSUITES JUDICIAIRES, AVEC CONTROLE DU FACTEUR PAUVRETE**

	Taux de poursuites pour actes de violence	Taux de poursuites pour délits se rapportant à des biens
Taux d'utilisation des services d'aide juridique criminelle-barème de tarifs	- 0,14	- 0,14
Taux d'utilisation dans toutes les affaires relevant du criminel	- 0,17	- 0,16

* En incluant les affaires des avocats du Service

** Les variables suivantes ont pu être contrôlées dans les corrélations partielles: pourcentage de personnes assistées sociales; pourcentage d'hommes assistés sociaux; pourcentage de femmes assistées sociales; pourcentage de chefs de famille assistés sociaux.

TABLEAU 3

UTILISATION DES SERVICES D'AIDE JURIDIQUE CIVILE NON-FAMILIALE, 1982

TAUX ELEVES			TAUX PEU ELEVES*		
LIEU	TAUX*	TYPE DE BUREAU	LIEU	TAUX*	TYPE DE BUREAU
Smithers	100,4	BJC/DS	Bella Bella	0,0	Itinérant
Merritt	77,6	BAJCA	Golden	0,0	DS
Powell River	45,9	BJC/DS	Nakusp	0,2	DS
New Hazelton	44,3	BJC	Gibsons	0,3	DS
Abbotsford	40,5	BJC/DS	Revelstoke	0,4	DS

* Taux pour une population de 1 000 personnes.

Incidence

Une enquête auprès des gens qui ont bénéficié de l'aide juridique a établi que la grande majorité d'entre eux étaient satisfaits des services reçus, pensaient que ces services avaient une incidence positive et croyaient avoir réussi dans leur propre affaire. Les personnes dont la demande de services d'avocat a été refusée reçoivent quand même quelques conseils sommaires au moment du refus. Ces personnes, de même que celles qui n'ont demandé que des avis et de l'information, ont déclaré qu'elles avaient trouvé utiles les conseils et l'information reçus.

La plupart des requérants dont la demande d'aide juridique a fait l'objet d'un refus et la plupart des gens qui avaient demandé des conseils uniquement ont obtenu des renseignements spécifiques. La plupart d'entre eux ont également été renvoyés à d'autres sources d'aide. Par exemple, les requérants des services tarifés à la famille, dont la demande a été rejetée pour des raisons financières, ont été renvoyés au Lawyer Referral Service (qui donne à la personne la possibilité de parler à un avocat pendant une courte période de temps, à peu de frais) dans 36% des cas, à un avocat de secteur privé dans 32% des cas et à d'autres organismes dans 14% des cas. Ces personnes n'ont pas été renvoyées à d'autres sources d'aide supplémentaire dans 18% des cas seulement. Plus de 70% des gens renvoyés ailleurs pour demander de l'aide ont donné suite à ce renvoi.

Les bureaux de la SSJ en plus d'offrir des services directement à la clientèle s'inscrivent également à l'intérieur d'un réseau plus global d'organismes et de particuliers capables d'assurer des services juridiques. Il arrive souvent que les gens se présentent aux bureaux de la SSJ sur recommandation. Ces mêmes personnes quittent également le bureau de la SSJ avec une nouvelle recommandation.

Lorsqu'une personne se voit refuser des services d'avocat pour des raisons financières, on prend comme postulat que ces personnes seront en mesure de retenir les services d'un avocat par leurs propres moyens. L'enquête a révélé, cependant, que cette hypothèse était fausse dans le secteur du droit de la famille. Dans 75% des cas, les personnes dont la demande avait été rejetée pour des raisons financières sont restées non-représentées même si 36% d'entre elles ont pu voir un avocat une fois par l'intermédiaire du Lawyer Referral Service. Parmi les personnes dont la demande avait été refusée pour cause de non-recevabilité de leur affaire (critères de recevabilité restreints par suite de compressions), 89% sont demeurées non-représentées.

Dans l'enquête sur les personnes ayant déposé une demande en divorce au cours de la période d'avant les compressions (époque où tous les divorces des personnes financièrement admissibles étaient recevables), 12% des personnes financièrement admissibles sont demeurées non-représentées, et 40% des personnes qui auraient été financièrement non-admissibles à l'aide juridique sont demeurées non-représentées. Parmi les personnes qui étaient effectivement financièrement admissibles, 58% ont été représentées par un avocat de l'aide juridique et 29% par leur propre avocat. Tous les faits semblent indiquer qu'on assiste actuellement à une baisse dans la représentation juridique des personnes qui ne sont pas admissibles à l'aide juridique. Dans le secteur du droit familial, il est impossible d'affirmer que les personnes dont la situation financière les empèche de bénéficier de l'aide juridique retiendront les services d'un avocat du secteur privé.

L'évaluation a montré que ce schéma était sans doute différent dans le secteur de l'aide juridique criminelle. Une étude subsidiaire effectuée par la ville de Vancouver a établi que les personnes dont la demande avait été rejetée pour des raisons financières et pour cause de non-recevabilité se faisaient quand même représenter dans un assez grand nombre de cas à la cour provinciale. Parmi les personnes refusées d'aide juridique pour des raisons financières, 70% ont eu recours aux services de leur propre avocat. Chez les personnes financièrement admissibles mais non-admises pour des raisons de recevabilité, 43% ont retenu les services de leur propre avocat. En outre, 29% de ces personnes se sont présentées au centre de droit de l'université de la Colombie-Britannique et se sont faites représenter par des étudiants en droit. Les taux de représentation pour les personnes rejetées d'aide juridique, au moins à Vancouver, étaient nettement supérieurs dans le domaine du droit criminel que dans celui du droit de la famille.

Comme nous l'avons vu dans la section sur l'accessibilité, les services offerts varient d'une région à l'autre de la province. On constate que les besoins d'aide juridique au criminel ne sont pas tous comblés et qu'il existe des lacunes évidentes dans le système d'aide juridique au civil non-familial.

L'extension de l'aide juridique civile non-familiale a été analysée plus à fond dans une étude subsidiaire portant sur 100 personnes ayant porté en appel les décisions de la Commission d'emploi et immigration du Canada (appels de la C.A.-C.). Les appels de la C.A.-C. sont des affaires civiles pour lesquelles chaque résidant de la Colombie-Britannique a le droit de se présenter dans un bureau de district de la SSJ ou à un BJC, un BAJCA ou un BJC/DS financé par la SSJ pour y obtenir des conseils. Par ailleurs, la plupart des appelants de la C.A.-C. (environ 75%) étaient, d'après l'enquête, financièrement admissibles à l'aide juridique et auraient été admissibles à la représentation au tribunal. Les faits indiquent, cependant, que seulement une personne sur cent a été représentée lors de l'audience d'appel et c'était par un représentant du syndicat. Parmi les autres personnes, 9% seulement ont déclaré qu'elles avaient examiné la possibilité de se rendre dans un bureau d'aide juridique. Une seule personne s'était effectivement rendue dans un bureau pour y prendre une brochure. L'extension de l'aide juridique dans les instances d'appel de la C.A.-C. ne touche qu'un pour cent de la population admissible. Il est possible que l'extension des services soit supérieure dans le cas des personnes qui examinent la possibilité d'aller en appel mais qui en décident autrement.

L'extension de l'aide juridique dans le domaine du droit familial touchait un plus grand nombre de personnes (pendant la période d'avant les compressions), sans toutefois être complète. Dans l'étude portant sur le divorce, 58% des personnes admissibles à des services d'avocat de l'aide juridique ont été représentées par un avocat rémunéré par l'aide juridique. Vingt-neuf pour cent ont retenu les services de leur propre avocat mais la vaste majorité de ces personnes se sont plaintes de difficultés financières à ce sujet.

Au total, l'évaluation a démontré que lorsque les services étaient accessibles, ils semblaient avoir une incidence positive, mais que l'accessibilité de ces services était limitée.

Qualité

La qualité est un facteur beaucoup plus difficile à évaluer. Pour faire une étude vraiment valable sur la qualité, il faudrait que des spécialistes examinent les dossiers eux-mêmes de manière à les évaluer en fonction des normes professionnelles généralement admises. Une telle étude est un travail d'envergure qui n'entrait pas dans le cahier des charges de la présente évaluation.

On a eu recours pour l'évaluation à plusieurs critères de mesure indirecte de la qualité qui, pour la plupart, se sont avérés positifs. Les personnes qui ont demandé l'aide juridique se sont déclarées satisfaites de services reçus dans les bureaux mais il n'est pas sûr que ces personnes étaient en mesure de juger de la qualité des services juridiques. De la même manière, les clients renvoyés à un avocat du secteur privé étaient d'avis la plupart du temps que leur affaire s'était réglée en leur faveur.

En définitive, la qualité de l'aide juridique dépend dans une large mesure du niveau de compétence des avocats du secteur privé qui prennent en charge les renvois. Rien ne permet d'affirmer, pour l'instant, que le niveau de compétence de ces avocats n'est pas acceptable ou que les services ne sont pas de bonne qualité. Dans une comparaison directe de plus de 15 000 cas traités par des avocats du Service et par des avocats du secteur privé qui s'occupent d'affaires de l'aide juridique criminelle, l'évaluation a pu établir que les clients des avocats du Service ont pu souvent bénéficier d'un jugement en leur faveur, du moins si l'on se place du point de vue de l'accusé. Les clients des avocats du Service, bien que jugés coupables aussi souvent que les clients des avocats du secteur privé de l'aide juridique (72% des cas), ont subi des peines de prison suivant un pourcentage de 12% inférieur à celui de l'autre groupe. Les clients des avocats du Service ont été emprisonnés dans 30% des cas tandis que les clients des avocats du secteur privé de l'aide juridique ont été incarcérés dans 42% des cas. Bien que cette étude se soit faite sans contrôle, elle n'en indique pas moins que les services d'avocats relevant directement de la SSJ sont de qualité supérieure.

Cette différence dans les taux d'incarcération mérite qu'on s'y attarde quelque peu. Bien que l'étude se soit faite sans contrôle expérimental, l'analyse a porté sur des affaires réglées. Il est possible que les affaires traitées par les avocats du Service soient d'une nature différente de celles traitées par les avocats du secteur privé qui s'occupent des renvois. Dans les entrevues, les avocats du Service ont indiqué qu'il leur était plus difficile de renvoyer au privé les affaires complexes et sérieuses que les affaires simples. Ils ont déclaré que cette difficulté avait trait au barème de tarifs de la Colombie-Britannique en vertu duquel l'avocat est payé avant tout pour les procédures en cour et non pour le nombre d'heures passées à travailler aux dossiers. Bien que les avocats du Service aient signalé qu'ils traitaient des affaires plus graves que les avocats du privé, on ne peut les croire sur parole sans procéder à des vérifications. Il n'est pas impossible, en effet, que les causes défendues par les avocats du privé soient plus sérieuses et aboutissent par conséquent plus souvent à des peines de prison.

Par ailleurs, le taux plus faible d'incarcération pourrait aussi s'expliquer par une meilleure connaissance, dans le cas des avocats du Service, du système judiciaire pénal, par une plus grande familiarité avec les personnes travaillant dans ce système ou par le fait que leurs affaires s'appuyaient plus souvent sur un plaidoyer de culpabilité que dans le cas des avocats du privé (environ 6% plus souvent). Les causes des avocats du Service étaient dont menées différemment de celles des avocats du privé.

Indépendamment des causes pouvant expliquer les différences dans les taux d'incarcération, rien n'indique dans l'évaluation qu'on ait affaire à des problèmes importants de qualité. Le plan d'aide juridique de la Colombie-Britannique reposait essentiellement sur les services des avocats du privé et, à ce titre, était tributaire de la compétence des avocats acceptant de prendre en charge les renvois.

Les services parajuridiques, les principaux services offerts dans les BJC et dans les BJC/DS ont été jugés d'excellente qualité par les avocats de direction. Le personnel parajuridique interrogé à ce sujet a cependant exprimé le désir de bénéficier d'une plus ample formation.

Même si l'évaluation ne reposait pas sur une étude directe portant sur la qualité, les critères indirects adoptés semblent indiquer qu'il n'existe pas de problèmes de qualité dans les services juridiques offerts par la Société des services juridiques.

RECOMMANDATIONS

Si dans l'ensemble l'évaluation a démontré que la SSJ faisait du bon travail dans la prestation de ses services, compte tenu des restrictions budgétaires qui limitent son action, il n'en reste pas moins que des recommandations s'imposent, certaines d'entre elles supposant un accroissement des ressources. En revanche, d'autres recommandations pourraient entraîner des économies. Toutes les recommandations sont fondées sur le postulat que la prestation de services équitables d'aide juridique, suivant la définition de la Legal Services Society Act, est l'objectif ultime du système d'aide juridique de la Colombie-Britannique.

RECOMMANDATION 1 - AMELIORER LES SERVICES OFFERTS DANS LES PETITES LOCALITES ET DANS LES REGIONS RURALES

Les petites localités et les régions rurales de la Colombie-Britannique ne bénéficient pas de tous les services de la SSJ. La prestation de ces services dans les régions rurales pourrait coûter très cher. Le système actuel des directeurs de secteur est inadéquat. Il est recommandé que le gouvernement crée un fonds important destiné à expérimenter les mécanismes de prestation rentable des services dans les régions rurales. Le budjet de la SSJ ne lui permet pas de mettre en place de meilleures structures pour la prestation de ces services dans les régions rurales. Il est donc naturel que ces fonds proviennent du gouvernement fédéral étant donné que les résultats de ces expériences pourraient permettre de régler d'autres problèmes de prestation de l'aide juridique dans de nombreuses régions du Canada.

RECOMMANDATION 2 - AMELIORER LES SERVICES DES AVOCATS COMMIS D'OFFICE

Dans le cadre du système actuel, les services des avocats commis d'office sont offerts aux personnes en état d'arrestation et en détention préventive. L'avocat commis d'office rencontre l'accusé avant sa comparution et représente l'accusé à l'audience de liberté sous caution. Si le temps le lui permet, l'avocat commis d'office peut s'occuper de l'accusé non-représenté qui n'a pas été arrêté. Les particularités des services offerts par les avocats commis d'office varient d'une cour à l'autre. Etant donné que les services d'aide juridique criminelle ne sont pas accessibles de façon uniforme dans la province, l'accessibilité pourrait être grandement améliorée si les services des avocats commis d'office étaient étendus et si les avocats commis d'office se voyaient confier la responsabilité supplémentaire de recevoir les demandes d'aide juridique ou de décider de l'admissibilité à l'aide juridique des personnes qui comparaissent en cour. Cette redéfinition des tâches pourrait entraîner une augmentation du nombre d'avocats commis d'office à la cour ou l'obligation de donner à l'avocat un assistant qui joue aussi le rôle de secrétaire judirique.

RECOMMANDATION 3 - ETENDRE ET EVALUER LES SERVICES DES TRAVAILLEURS SOCIAUX ET TRIBUNAUX

Le recours à l'aide juridique au criminel dépend dans une très large mesure des renvois pratiqués par les travailleurs sociaux qui ne relèvent pas de services juridiques de la Société comme, par exemple, les travailleurs sociaux autochtones, l'Armé du salut et la Elizabeth Fry Society. Ces services jouent un rôle évident et primordial au sein de l'aide juridique. Ils pourraient bien se révéler une méthode rentable pour permettre aux personnes admissibles à l'aide juridique criminelle d'en bénéficier effectivement. Il faudrait évaluer la rentabilité de ces services en tant que voies d'accès à l'aide juridique et les généraliser si les résultats sont positifs. Cette action ne relève pas d'attributions de la Société des services juridiques et devrait donc être entreprise par le gouvernement fédéral ou provincial en collaboration avec les services sociaux des tribunaux.

RECOMMANDATION 4 - EXTENSION DE L'AIDE JURIDIQUE CIVILE

L'aide juridique civile non-familiale n'est pas offerte de façon équitable partout dans la province. L'accès à cette aide existe surtout dans les localités où il y a des bureaux, en particulier les bureaux juridiques communautaires ou les BJC/DS d'après la fusion. Pour que la Société des services juridiques puisse s'acquitter de son mandat de prestation d'aide juridique civile, il lui faut mettre au point des mécanismes pour la rendre plus accessible. Parmi ces mécanismes, on pourrait avoir davantage recours au personnel parajuridique ou préciser les catégories d'affaires que doivent prendre en charge les avocats du Service. Compte tenu de l'organisation décentralisée de la SSJ, il faudrait adopter des procédures de traitement uniforme si l'on demande au personnel de s'acquitter de fonctions plus étendues d'aide juridique civile non-familiale. Quoi qu'il en soit, si l'on garde les services au criminel et à la famille au niveau actuel, il faut des ressources supplémentaires pour pouvoir augmenter la prestation des services au civil non-familial.

RECOMMANDATION 5 - AMELIORER L'ACCESSIBILITE AUX BUREAUX

Il existe un écart considérable entre les niveaux de services offerts dans les localités dotées de bureaux et celles qui en sont dépourvues. A l'intérieur même des localités disposant de bureaux, l'accessibilité à ces bureaux varie énormement. Il y a plusieurs mesures que la SSJ pourrait prendre pour améliorer de façon générale l'accessibilité à ses bureaux. Les plaques de bureau sont souvent difficiles à voir ou à trouver. Il arrive souvent que ces plaques ne contiennent pas d'information indiquant que le bureau assure l'aide juridique ou toute autre forme de service juridique. Les heures d'ouverture sont souvent limitées. La plupart des bureaux ferment le midi et rares sont ceux qui sont ouverts le soir ou la fin de semaine. Les bureaux sont en général inaccessibles à la classe ouvrière du fait qu'ils sont fermés en dehors des heures de travail. L'accès pour les handicapés laisse souvent à désirer. Il convient donc d'améliorer la situation en ce qui a trait aux plaques, aux heures de bureau et à l'accès des handicapés.

RECOMMANDATION 6 - AUGMENTER LES RESPONSABILITES LOCAUX EN CE QUI A TRAIT AUX SERVICES

Dans leur forme actuelle, les bureaux régionaux desservent la localité où ils sont situés de même que les gens des localités voisines qui se présentent au bureau. Le bureau principal assure un service itinérant dans certaines localités éloignées. Plusieurs bureaux locaux ont mis au point leur propre service itinérant en vue d'assurer la prestation de l'aide juridique dans les localités éloignées à l'intérieur de limites qu'ils ont eux-mêmes établies. La SSJ, en effet, n'a pas divisé la province en régions de service et elle n'a pas précisé les responsabilités concernant les services à assurer à la population de ces régions. A cause de diverses catégories de bureaux, dont certains sont à contrat, il serait peut-être difficile de créer des centres de responsabilité régionaux. La division de la province en régions de service et l'assignation officielle des responsabilités en ce qui a trait aux services à offrir à la population de ces régions pourraient, en dépit des difficultés que cela représentent, contribuer énormément à combler les lacunes du système actuel de prestation.

RECOMMANDATION 7 - EXAMINER LES CAS D'AIDE JURIDIQUES TRAITES PAR LE PERSONNEL

Dans une analyse d'environ 15 000 cas d'aide juridique criminelle, l'évaluation a pu démontrer qu'il existait une énorme différence entre les taux d'incarcération des clients représentés par les avocats du Service et ceux représentés par les avocats du privé. Bien que les clients des avocats du Service et ceux des avocats du privé présentent les mêmes taux de verdicts de culpabilité, les taux d'incarcération des clients des avocats du Service sont de 12% inférieurs à ceux des clients des avocats du privé. Mais l'analyse des cas ne s'est pas faite sur une "base expérimentale". Il est possible que les affaires traitées par les avocats du Service soient différentes de celles traitées par les avocats du privé, ce qui expliquerait les écarts dans les taux d'incarcération. La possibilité que les avocats du privé s'occupent de cas plus graves n'est pas à écarter. Quoi qu'il en soit, même si l'évaluation n'a pas pu expliquer statistiquement les différences qui existent entre les affaires traitées par les avocats du Service et celles des avocats du privés, l'importance des écarts dans les taux d'incarcération mérite une étude approfondie. Comme mesure minimale, la SSJ pourrait entreprendre une analyse provinciale détaillée des cas d'aide juridique criminelle traités par les avocats du Service et de ceux des avocats du privé en comparant les jugements relatifs à des délits particuliers. Si l'on constate encore des différences, la SSJ pourrait effectuer une étude expérimentale à l'échelle de la province dans laquelle elle affecterait au hasard certains cas aux avocats du Service et aux avocats du privé de manière à déterminer, avec contrôle statistique, s'il existe de véritables écarts dans l'issue des affaires.

RECOMMANDATION 8 - EXAMINER LE NIVEAU DE COMPETENCE ET LA FORMATION DU PERSONNEL PARAJURIDIQUE

L'évaluation a montré que le personnel parajuridique se livre à une large gamme d'activités. Ce personnel est la clé de voûte du système d'aide juridique civile mais il n'est pas satisfait de son niveau de formation. Certes, la SSJ semble disposer d'un excellent programme de formation mais il n'est pas destiné spécifiquement au personnel parajuridique ou aux conseillers juridiques, et cette formation n'est pas obligatoire. La SSJ devrait réviser son programme de formation en tenant compte des besoins du personnel parajuridique et examiner la possibilité d'adopter de nouvelles méthodes de formation ou encore d'élaborer des mécanismes d'évaluation du niveau de compétence du personnel parajuridique dans le but de préciser quels employés ont besoin de formation et dans quel domaine. Le Conseil pourrait même revoir sa politique actuelle de formation non-obligatoire. Il importe d'ajouter que les avocats qui dirigent le travail du personnel parajuridique considèrent en général que ce travail est excellent.

Les recommandations présentées devraient être interprétées dans la perspective globale de l'évaluation. Cette évaluation a démontré que la SSJ s'acquitte très honorablement de son mandat, compte tenu des limites budgétaires auxquelles elle est asservie. Il est impossible toutefois de considérer que le système d'aide juridique de la Colombie-Britannique est parfait. Il existe des régions de la province où les gens ont très peu accès aux services. Il importe donc d'améliorer les services pour assurer un système d'aide juridique équitable.

Department of Justice
Canada

Ministère de la Justice
Canada

AN EVALUATION
OF
LEGAL AID
IN
BRITISH COLUMBIA

JUNE 1984

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Evaluation and
Internal Audit

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des Programmes et de
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June, 1984

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PREFACE

This report presents the results of an evaluation of the legal aid services delivered by the Legal Services Society of British Columbia. The Legal Services Society is the primary provider of legal aid in the province of British Columbia. The evaluation was funded by the Department of Justice Canada and the Legal Services Society of British Columbia, and was conducted by a research team from Simon Fraser University. The evaluation covered 1982-83.

The evaluation project consisted of two phases. In the first phase, the researchers worked with representatives from the Department of Justice and the Legal Services Society to define major questions for which answers would be sought. Extensive interviews were conducted with Legal Services Society staff. The researchers developed an evaluation plan which was approved and executed during the second phase of project.

During the second phase of the evaluation, an advisory committee was formed to provide advice. The advisory committee included:

Sandra Edelman, Ministry of the Attorney General (Delegate of Robert Adamson)
Barbara Findlay, Legal Services Society
Georges Goyer, Board member, Legal Services Society.
Avrim Lazar, Department of Justice
Daniel Maas, Legal Services Society
David Miller, Legal Services Society, Branch Office, Nelson, British Columbia
William Mussel, Board member, Legal Services Society
Patricia Nelson, A.I.D. Community Law Centre, Nanaimo, British Columbia

The advisory committee met periodically to review project status and submit comments. The advisory committee's views were considered in the final report, but the conclusions found in the report are not necessarily those of the committee members.

OBJECTIVES OF THE EVALUATION

The evaluation had several objectives: the development of baseline information describing the history of legal aid within the province; the description of legal aid service delivery patterns; and the provision of answers to a set of more specific questions touching on the impact and quality of legal aid.

The evaluation was focussed rather than comprehensive. The focus was on direct client services delivered through Legal Service Society offices and through independent community legal service organizations funded by the Legal Services Society.

During the period in which the evaluation was conducted, the Legal Services Society operated, funded or sponsored a number of legal information, educational and clinical programs through its Head Office. These included a legal information centre; a schools program which aided development of legal education curricula and materials for use in primary and secondary schools; a public legal education office; and such sponsored programs as the People's Law School and the Vancouver Community Legal Assistance Society. The evaluation did not examine these programs. Broader LSS programming was considered only as a backdrop against which to examine direct client services.

Major Evaluation Questions

The major questions addressed by the evaluation were:

- What legal aid services were delivered through the Legal Services Society (LSS) and were they the services that ought to be delivered?
- Were legal aid services accessible to people who were eligible for them?
- Did the legal aid services provided through the Legal Services Society have a positive impact?
- Were legal aid services quality legal services?

FORMS OF ANALYSIS

Descriptive and Enumerative Analysis

To analyze legal aid services, it was necessary to develop a descriptive base, to describe what legal aid services were available and to describe the number of services actually provided. The Legal Services Society is an extremely complex organization, providing a wide range of services through a variety of delivery modes. A description of the current organization and its practices is a precursor to further organizational analysis. Enumeration of client characteristics and contacts, service flows, community locations and characteristics, and the like forms an essential base for measurement and assessment.

Comparative Analysis

Comparative analysis is very important in evaluating the activities of a complex organization. Because the Legal Services Society of British Columbia used a variety of different service delivery mechanisms, it was important to compare the service delivery patterns. Some administrative structures and some service delivery mechanisms are bound to be more efficient or better liked by clients or better suited to community needs than others. Comparative analysis provides important information about which methods are best suited to province-wide legal aid needs.

Normative Analysis

Finally, some analyses performed during the evaluation were purely normative. Are the various patterns of legal aid delivery in British Columbia acceptable? What pattern of legal aid delivery is "best"? By what criteria are "acceptable" and "unacceptable", "good", "better" and "best" labels attached to various aspects of legal aid service delivery? Such analyses are important and necessary, but inevitably depend upon choices among competing sets of values..

Major Research Areas

The various objectives of the evaluation were addressed through four major research areas:

- a Service Delivery Analysis
- an Eligibility Analysis
- an Impact Analysis
- a Service/Quality Analysis

Enumerative and descriptive, comparative, and normative analyses were peformed in each major research area.

Service Delivery Analysis

Chapter One describes the context of legal aid in British Columbia: the legislated mandate of the Legal Services Society (LSS) and how that mandate has been transformed into the LSS administrative structure. In describing the context of legal aid, the history of legal aid in British Columbia is outlined and the mandated pattern of legal aid in British Columbia is compared to mandated legal aid patterns elsewhere in Canada, in Great Britain and in the United States.

After British Columbia's organizational and administrative mechanisms are described, the actual service delivery patterns are reported and possible future directions for legal aid are explored.

Eligibility/Accessibility Analysis

Implicit in all questions about the delivery of legal aid services is the issue of who should be eligible for government funded legal services. Once this issue has been determined, the next question is whether services are actually accessible to those individuals deemed eligible.

The concepts of eligibility and accessibility are, however, complex and tied to the services which are actually provided. Discussion of these concepts and what that discussion means for legal aid in British Columbia forms the beginning of Chapter Two. The second section of Chapter Two reports the eligibility patterns found in effect province-wide and in various areas within the province during the term of the evaluation study. Similarly, accessibility patterns are described both provincially and for various areas within the province. Areas of high and low accessibility are identified and possible explanations for varying accessibility rates are discussed.

Impact Analysis

The impact of legal aid is explored in the first part of Chapter Three. The impact of both representational and informational services is considered for clients with criminal, family and civil non-family problems. Several major classes of impacts are described, including final case outcomes, actual representation patterns for rejected legal aid clients, and general satisfaction with service. This chapter also considers the private bar's view of the legal aid structure and its satisfaction with the legal aid system.

Type and Quality Analysis

The evaluation explored several quality issues associated with different modes of legal aid service delivery. They are discussed in the latter part of Chapter Three. The use of paralegals to provide information, advice and representational services is explored. The use of staff and private lawyers to deliver representational services is analyzed.

Restraint

During the evaluation period, there was a major economic recession and the government of British Columbia implemented a series of increasingly severe restraints on public sector budgets and expenditures. In common with most other publicly funded institutions, the Legal Services Society experienced a series of effective decreases in its overall budget. In order to adjust to declining funding levels, the Legal Services Society had to reduce the services it provided.

Late in 1983, after the field research and data gathering components of the evaluation study had ended, the drastic reduction of services that the LSS implemented in response to its budget problems was challenged in court by a rejected criminal legal aid applicant. In *Mountain v. Legal Services Society* [1984] 2 W.W.R. 438 (decided November 10, 1983) the British Columbia Court of Appeal ruled the coverage reduction invalid, holding that, at least so long as funds had not been exhausted, the Legal Services Society was obliged, under section 3(2) of the Legal Services Society Act, to make legal services available to any qualifying person whose "...liberty, safety, health or livelihood are in real jeopardy...". As a result, the Legal Services Society reintroduced broad legal aid coverage in mid-November, 1983.

The uncertainty about legal aid resources and coverage continued into 1984. The Attorney-General of British Columbia appointed a special commission to inquire into the provision of legal aid and report to him in mid-1984. Subsequently, the Attorney-General announced that he was considering legislation to amend to the Legal Services Society Act and reverse the effect of the *Mountain* decision.

The evaluation study was designed and initiated prior to the introduction of major restraint measures by the provincial government and the resultant restraint programming by the Legal Services Society, and at a time when policy emphasized the importance of improving the accessibility of services for potential legal aid clients. As restraint changed both the levels of service actually provided and the direction of policy emphasis, the design of the evaluation was modified to attempt to measure the impact of public sector restraint on the delivery of legal aid services.

Since the first restraint measures were introduced by the Legal Services Society in the fall of 1982, the Society has had to implement additional restraint measures three times, then increase services in response to court order. At the time of writing this report, it was not possible to tell whether restraint measures will have to be re-introduced or to what final minimum level legal aid services in the Province of British Columbia might be reduced.

The evaluation report must be interpreted at several levels simultaneously. Much of the information presented describes the situation that existed prior to the onset of what now appears to be an unsettled, but extended period of reduction in service. While the level of services provided prior to the major service cutbacks may not represent the level of service that the Legal Services Society would like to provide in the ideal, it is assumed that pre-restraint services constitute a minimum level to which the Society would wish to return when resources permit. As such, pre-restraint service levels and patterns are worth describing and analyzing. Based on what can be discovered about pre-restraint services, the Society might wish to alter patterns of delivery if budgets increase.

Restraint had severe structural impact on the legal aid system: broad categories of service were eliminated; eligibility standards were changed; offices were closed; staffing levels were reduced. Whenever possible, the impact of these structural changes is analyzed and compared with the situation during the pre-restraint period. While inferences about the priorities of the Legal Services Society can be drawn from the pattern of service reductions and eliminations, the evaluation study did not assume that restraint levels represent the levels of service that the Society would want to provide. The evaluation project analyzed the characteristics and quality of legal aid in British Columbia prior to the cutbacks and then looked at changes in the characteristics and quality of those services after restraint measures were implemented. The increase in services mandated by Mountain occurred after the data gathering phase of the evaluation. The impact of this increase could not be included in the evaluation.

CHAPTER 1

AN OVERVIEW OF LEGAL AID IN BRITISH COLUMBIA

1.0 INTRODUCTION

Practical overviews require many and varied vantage points. In Section 1.1 legal aid is viewed in terms of its formal objectives - provincial legislation, and the federal-provincial agreement. In Section 1.2 this perspective is broadened both in terms of time and place to include the history of legal aid in Britain, the United States and Canada. Section 1.3 deals with the history of legal aid in British Columbia. Section 1.4 describes the organizational structure and nature of service patterns of the Legal Services Society (LSS). Section 1.5 assesses the extent to which federal and provincial goals were being met by the LSS during the term of the evaluation study. It concludes with some indications of future directions the Society might take, both in the long and short term. These indications are derived from a consideration of the Society's history, its present patterns of service, and opinions of both its members and external observers about the future.

Several themes run through each of these sections. The themes are related in that they each describe a dimension of service delivery, and make it possible to compare legal aid in British Columbia with its counterparts elsewhere and in earlier decades. The first theme is the level of centralization or decentralization of service delivery. In any organization that provides a service across a large geographic area, decisions must be made about how much service delivery should be centralized or decentralized, how much policy control should be centralized or decentralized, and how much administrative control should be centralized or decentralized. The ultimate centralized system would provide services from only one location and use fixed rules for providing the service. A highly decentralized system would use many different distribution points and allow local decision makers great flexibility in determining what services should be provided and who should receive services at each distribution point.

Centralized and decentralized systems each have strengths and weaknesses. In fact the strengths and weaknesses are mostly complements. In a centralized system it is possible to deliver a uniform service and provide, at least theoretically, mechanisms for equalizing access to services. However, a highly centralized system is usually unresponsive to local conditions and needs. One set of rules applies to all. In a decentralized system it is easier, at least theoretically, to be responsive to local conditions. The by-product of responsiveness is a lack of uniformity. Organizations that provide services to specific regions or through local service offices tend to be decentralized. Responsibility for providing services is usually delegated to the local service offices. The legal aid system in British Columbia will be analyzed to determine how centralized it is and to assess the advantages and disadvantages associated with the degree of centralization found.

The second theme that runs through the report is the relation between reactive and proactive services. These terms help characterize whether the focus of service delivery is primarily on individuals or groups; on a "first come, first serve" basis or on a community outreach policy; on access within the existing legal system or on reform of that system and the law itself. Reactive systems respond to people who are self-motivated or otherwise able to seek out services. Proactive systems are frequently developed from the assumption that people who need services do not know how to get them and, consequently, must be sought out by the service provider.

The third theme is that of needs or rights as the underlying sanction for service delivery. This theme centres on whether legal aid is provided as a form of charity (in which lawyers represent individuals determined to be in need, free of charge as part of their ethical responsibility), or as a matter of right (where statutes, regulations, government agreements or law society rules provide for payment to lawyers for certain representational services to individuals who qualify financially). The concept of right used in this report is broad. It includes rights defined by enabling legislation and government agreement. Rights of this type are not absolute; they can be changed by the expedient changing of the legislation or agreement. But, as demonstrated in Mountain v. Legal Services Society [1984] 2 W.W.R. 438 (BCCA, decided Nov. 10, 1983), at least while the legislation or agreement is in force, these rights are legally enforceable.

Although these three themes and their application will be discussed more fully in the following sections, it should be stressed here that they are not meant so much to label services as being particular types, but to describe the processes and positional shifts back and forth along policy continua that occur in the growth of any delivery structure. Few organizations are static. Most change and move between centralization and decentralization, proactivity and reactivity. Neither end of a continuum represents an ideal form. Organizations must adapt to the reality of their particular environment and most often have both centralized and decentralized functions, and reactive and proactive elements.

The evaluation explored direct client services. It did not include analyses of indirect client services or of management practices. The range of indirect client services is broad enough to necessitate a separate evaluation. Evaluation of management practices would similarly require a separate study.

A final note concerns the term "legal aid" itself. "Legal aid" is frequently used to specify two different entities. The first is a government-funded (but not necessarily government-administered) plan under which individuals unable to afford a lawyer are able to secure representation at nominal or no personal cost for certain criminal and civil legal matters. In this report this use of the term will be referred to as a "legal aid plan" or representational services. The second common usage of the term "legal aid" is less restrictive, referring to the amalgam of government-funded legal services for the poor, and in some instances, for the public at large. These might include the legal aid plan itself, the provision of legal advice (apart from or in addition to actual representation), public legal education, community development, self-help clinics, lay advocacy programs, and programs oriented towards test cases. When this wider array of services is being described, the terms "legal aid" or "legal services" will be used interchangeably. In British Columbia, the administrative body for the legal aid plan also administers a large range of other legal services to the poor and the general public. These services and the legal aid plan itself are often delivered through the same offices in local communities. While some form of legal aid plan is usually at the core of national or provincial legal services to the poor, the variety and extent of other legal services in British Columbia is greater than in many other jurisdictions. Even though the legal aid plan is the primary focus of this evaluation, it is nonetheless natural that its deficiencies and merits should be viewed in relation to the wider range of legal services of which it is a part.

1.1 THE FORMAL OBJECTIVES OF LEGAL AID

This section describes the current formal objectives of legal aid in British Columbia, as expressed in provincial legislation, the federal-provincial legal aid agreement, and the written policies and goals of the Legal Services Society.

1.1.1. Provincial Legislation - the Legal Services Society Act

As mentioned in the introduction, the Legal Services Society administers both the legal aid plan and a wide range of other legal services for the poor and general public in British Columbia. The formal objectives of the Society are set out as follows in the Legal Services Society Act [R.S.B.C. 1979 c. 227] passed in October, 1979:*

> 3. (1) The objects of the society are to ensure that
> (a) services ordinarily provided by a lawyer are afforded to individuals who would not otherwise receive them because of financial or other reasons; and
> (b) education, advice and information about law are provided for the people of British Columbia.
>
> (2) The society shall ensure, for the purpose of subsection (1)(a), that legal services are available for a qualifying individual who
> (a) is a defendant in criminal proceedings that could lead to his imprisonment;
> (b) may be imprisoned or confined through civil proceedings;
> (c) is or may be a party to a proceeding respecting a domestic dispute that affects his physical or mental safety or health or that of his children; or

---

* The Legal Services Society was created through an amalgamation of the Legal Services Commission and the Legal Aid Society. Factors which led to this amalgamation are disccussed in Section 1.3 of this chapter.

(d) has a legal problem that threatens
   (i) his family's physical or mental safety or health;
   (ii) his ability to feed, clothe and provide shelter for himself and his dependents; or
   (iii) his livelihood.

These objects establish as a matter of legislative right legal aid for qualifying individuals in certain circumstances.* These circumstances relate both to types of legal proceedings or legal problems and their anticipated consequences. Consequences after conviction cannot be predicted with absolute certainty except in the situations where the criminal code mandates a prison term, but in general convictions for indictable offences are more likely to result in a prison term than convictions for summary offences. Legal aid representation is a matter of legislated right but is only relative, depending to greater or lesser degree on the judgment of the person assessing the application. Furthermore, there are a range of "services ordinarily provided by a lawyer" that are not given greater specification in subsection 3(2) and for which the legislated right to legal aid is less certain. In fact, under Section 10 of the Act. "The society has authority to determine the priorities and criteria for the services it or a funded agency provides under this Act". This means that both the determination of which legal matters, within limits set by section 3(2), are coverable by legal aid, and the criteria for assessment of an applicant's financial eligibility are subject to change from time to time by the Society. This section of the Act has been greatly restricted by Mountain, the Appeal Court decision that ruled restraint coverage decisions invalid.

The second object of the Society, the provision of education, advice and information about law, is available to all of the people of British Columbia. The statute does not limit the provision of these services to "qualifying individuals", as is the case for the legal aid plan.

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* This point is settled by the British Columbia Court of Appeal in Mountain v. Legal Services Society, (1984). See p. 2, Supra, for full citation.

The power to determine priorities and criteria for services ultimately rests with the Society's Board of Directors, which controls and directs the business of the Society (LSS Act, Section 5)*. There are fourteen directors. Seven of them - at least two of whom are not to be lawyers - are appointed by the Lieutenant General in Council (i.e. the provincial cabinet) on the recommendation of the Attorney General. The other seven - again, at least two of whom are not to be lawyers - are appointed by the benchers of the Law Society after consultation with the executive of the British Columbia Branch of the Canadian Bar Association.

The Board may appoint an executive director for the Society (Section 7), who must "supervise, manage and administer the business of the Society in accordance with the policy of the board and subject to its control and direction". The Board may also appoint officers and employees and engage and retain specialists and consultants required to carry out the business of the society, or may authorize the executive director to do so (Section 8).

At the first meeting in each fiscal year, the Board appoints by resolution an executive committee of not more than five directors (Section 6). This committee has most of the powers of the full Board between meetings of the Board.

The organizational structure of the Legal Services Society is complex and reflects the origins of the Society. The history of legal aid in British Columbia will be described in the next section. The act does not specify how services should be delivered; that is a Society decision. During the term of the evaluation the Society used three main office structures to deliver legal aid: Branch Offices with lawyers; Community Law Offices with legal information counsellors and some lawyers; and Area Directors. Branch Offices provide line services. Staff are employed directly by the Society. Community Law Offices work under a contract with the Society and have local, independent boards of directors. Area Directors process applications under the legal aid plan and are paid on a per interview basis. All office types also process legal aid applicants where the accepted applicants are referred to the private bar.

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* Of course, in reality, power in the organization is more defuse than legislation makes it appear. The actual extent and nature of control exercised in these matters on a day to day basis will be dealt with more fully in Section 1.3, and the issue will also be seen in historical perspective.

In summary, the Legal Services Society Act provides that qualifying individuals have a right to legal services in certain legal proceedings or for certain legal problems. The Act defines those matters for which legal services shall be available in broad terms only, and allows considerable flexibility to the LSS to determine its own service priorities and criteria. Ultimate authority for these decisions under the Act rests with the Board of Directors of the Society.

1.1.2 The Federal-Provincial Legal Aid Agreement

Since 1972, the Federal Department of Justice has maintained a cost sharing agreement with the Ministry of the Attorney General in British Columbia (and in all other provinces) concerning the provision of legal aid in certain criminal matters. The objective of this agreement is to "ensure equality before the criminal law throughout the nation". To this end, the federal government agrees to pay the lesser of 90% of provincial expenditures for criminal legal aid or an amount based on a per capita allocation which changes according to population fluctuations and other factors including a funding ceiling related to the performance of the economy. Negotiations are currently under way concerning renewal of the agreement.

The agreement defines "legal aid" as "legal advice and representation provided by a member of the bar of the province in a matter related to criminal law". The agreement futher specifies those "matters related to criminal law" for which legal aid must be provided for eligible persons:

- indictable offences;
- federal summary conviction offences or proceedings under the Juvenile Delinquents Act where there is a likelihood, in the opinion of the provincial agency (i.e., the Legal Services Society) that there will be imprisonment or loss of means of earning a livelihood;
- proceedings pursuant to the Extradition Act and the Fugitive Offenders Act;
- appeals by the Crown in any of the above matters;
- appeals by the accused in any of the above matters, if the provincial agency (the LSS) determines that the appeal has merit or where the court appealed to requests the appointment of counsel on behalf of the appellant.

The federal-provincial agreement is more specific than the Legal Services Society Act. It specifies coverage for indictable and some summary offences as well as actions under the Extradition Act, the Fugitive Offenders Act, and appeals. The Legal Services Society Act defines coverage based on sentencing patterns and consequently includes provincial offences as well as Criminal Code offences. Despite these differences the agreement basically reflects the criminal legal aid coverage mandated by the language of the Legal Services Society Act, coverage for indictable offences and for federal summary conviction offences where there is a likelihood of imprisonment.

The agreement is more specific than the Act in stating that financial eligibility rules must be flexible:

> ...in [determining financial eligibility the provincial agency] shall apply flexible rules that take into account whether the applicant can retain counsel at his own expense without him or his dependents (if any) suffering undue financial hardships such as incurring heavy indebtedness or being required to dispose of modest necessary assets.

The agreement also specifically allows the provincial agency discretion to deny eligibility by reason of:

> ... (a) the applicant being charged with an offence the same as or similar to one for which he has previously been convicted, or
>
> (b) the total amount of legal aid that the applicant is currently receiving or has received from the provincial agency, or
>
> (c) the applicant not being ordinarily resident in one of the provinces or territories of Canada: except that the provincial agency shall not deny legal aid to an applicant subject to proceedings under the Extradition Act or the Fugitive Offenders Act solely on the ground that the applicant is not ordinarily resident in one of the provinces or territories of Canada.

Finally, the agreement also specifies that the provincial agency is to require contributions by the recipient of legal aid if it can be done without causing financial hardship. Contributions are also required where costs have been recovered in proceedings.

Two legal services are specified by the agreement that are not explicitly mentioned in the Act. The first is that:

> The provincial agency shall take all reasonable measures to ensure that an eligible person who has been arrested or detained is given the opportunity to retain and instruct counsel without delay.

The second is that approved applicants under the legal aid plan who have been charged with an offence for which the minimum penalty is life imprisonment may retain any qualified member of the provincial bar willing to represent them rather than simply have a lawyer assigned to them.

In summary, the federal-provincial legal aid agreement by and large reflects the provisions for criminal legal aid coverage in the Legal Services Society Act, because both focus on individuals who may go to jail, as opposed to (for example) first offenders, but specifies that financial eligibility requirements must have flexibility to avoid applicant hardship. The federal-provincial agreement is more specific than the Act in allowing the provincial agency to deny coverage on certain grounds or to require contributions of recipients and in extending services to the legal aid applicant in particular instances not mentioned in the Act.

1.1.3 Policies and Goals of the LSS

There was no formally approved statement of overall goals and objectives of the LSS during the term of the evaluation study. In February, 1982, the Society's Board of Directors requested that LSS department heads develop a draft document of LSS goals and objectives for its consideration. In May, 1983, the document was submitted to the Board. It contained an overall mission statement and eight components dealing with the following matters: representation, prevention, public advocacy, community participation, research, administration, special services and cooperation. Since the document is, at the writing of this report, still under examination by the Board and may well be revised, it is not possible to consider it as a formal expression of the Society's intent.

An analysis of the goals and policies of the Legal Services Society is a major undertaking beyond the scope of this evaluation. To complete a full evaluation of the Legal Services Society a management evaluation should be done. such an evaluation, at a minimum, should include analysis of the LSS policies and procedures and formal and informal objectives found in published documents and implicit in actual operations.

While no detailed analysis of the policies and goals of the LSS was performed in this evaluation, there are several general comments which can still be made. The direct client services provided through the Society are defined and limited. A partial definition of services provided can be found in the Tariff of Fees and the LSS Policies and Procedures Handbook.

1.1.3.1 Tariff of Fees

Representation under the Legal Aid Plan in British Columbia is provided either by staff counsel in LSS Branch Offices placed around the province or by members of the private bar who accept cases under a referral program and are paid in accordance with a fee schedule or tariff.

The tariff booklet considered here (for Sept. 1, 1982, revised Dec., 1982) sets out the types of legal aid matters and the related fees for which the LSS will pay private lawyers who undertake legal aid cases referred by the Society.

In a general information section at the front of the booklet, criminal legal aid coverage is described in terms similar to the federal-provincial legal aid agreement. However, the designation of summary conviction offences is not restricted to federal offences. A list at the back of the booklet includes certain provincial offences (e.g. under the Social Assistance Act and the Wildlife Act) and offences under municipal by-laws, which could possibly result in a jail term or loss of livelihood. The tariff booklet also lists coroner's inquests as covered proceedings. The tariff booklet states that Legal Aid is "generally available in family law matters except applications made in Provincial Court"*. (Representation for Provincial Court applicants was, at the time of the publication of the tariff, provided by the Family Law Unit of the Ministry of the Attorney General under special circumstances). Finally, the tariff booklet states that:

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* As will be seen in the following discussion of the Policy and Procedures Handbook, this statement does not reflect the more restrictive LSS policy on family matters introduced in October, 1982, as part of restraint programming.

While assistance is provided for civil matters no tariff is available to pay lawyers to provide such assistance. Cases are referred to lawyers on a pro bono basis in rotation and disbursements only are paid by the Society.

1.1.3.2 Policies and Procedures Handbook

This manual is an updating of earlier versions of the Legal Aid Handbook which had governed Legal Aid Society policies prior to amalgamation with the Legal Services Commission. It includes revisions which take into account the larger structure and needs of the combined operation. It is useful in three respects. First, it outlines duties of Branch Office staff and priorities for client services. Second, it clarifies the extent to which local offices can establish service priorities. Third, it specifies financial eligibility standards under the legal aid plan. Each of these matters, although not an objective in the strict sense, sheds light on the underlying interests of the Society. The manual as a whole was approved by the Society's Executive Director in September, 1982. The section on Client Services priorities was approved by the Board of Directors in August, 1982. It can thus be considered a formal, if indirect, expression of certain objectives of the LSS.

Duties of Branch Office staff are laid out in Section 1.1 of the Policies and Procedures Handbook, as listed below. The duties of Community Law Office* staff are set out in a contract negotiated annually between each office and the LSS. They are broadly similar to those of Branch Office staff. The duties and priorities of Branch Offices, as specified in the Policies and Procedures Handbook, are:

1. Administration of criminal law and family law tariff referrals, with the cooperation of the local bar.

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* The two primary service delivery structures of the LSS are Community Law Offices (including Native Community Law Offices), which were formerly funded by the Legal Services Commission, and Branch Offices, formerly part of the Legal Aid Society. They evolved independently of one another prior to amalgamation in 1979, and have retained much of their distinctive character. Section 1.4 contains a description of their history. A description of their operations during the term of the evaluation can be found in Section 1.5.

2. Provision of duty counsel in local jails, for people appearing in court on criminal charges.

3. Provision of legal services to people with legal problems not covered by the tariff, especially those areas of law for which there is no other assistance.

4. Provision of summary advice to applicants seeking legal services.

5. Participation in community-based public legal education, through the media, schools, and private organizations.

6. Identification of special legal needs of poor people in the community.

7. Making the community aware of the availability of legal services for poor people.

Items 1 and 3 reiterate objectives already discussed. Item 2, the provision of duty counsel, is an additional method of serving individuals who are eligible for representational services under criminal legal aid plan. Items 4 to 7 are elaborations of the second objective stated in the LSS Act, that education, advice and information about law are provided for the people of British Columbia.

The CLO's and Native CLO's (NCLO) are given more flexibility than Branch Offices in setting priorities. Section 2.1.1 of the Handbook states:

> An important part of (Schedule A of the contract with CLO's and NCLO's) is the obligation of local boards to set the priorities for legal services in the community which their office serves. Community law offices are better able to set priorities for service within their community than is the Legal Services Society, because a local board has a better knowledge of the circumstances in its community.

In fact, Section 2.2.2 of the Handbook states that the LSS will ask each CLO to provide Head Office with its own assessment of service priorities for their communities. These apparently contradictory approaches to priority setting within one organization, the one centralized, the other community-based, are clearly related to the amalgamation of the Legal Services Commission and Legal Aid Society in 1979, where two distinct organizations were merged. The amalgamation will be discussed in Section 1.3.

It is important to note, however, that the discretion in CLO's is limited by their contracts with the LSS. Specifically, the CLO's contract to provide the services defined in sections 3(1) and 3(2) of the Legal Services Society Act, 1979. As described previously, these are the Sections of the Act that define the circumstances under which legal aid must be provided to individuals.

As a result of economic restraint, in October, 1982, the LSS issued new guidelines for financial eligibility assessments of persons applying for legal aid plan representational services (as opposed to summary advice, which does not require financial eligibility assessment). Prior to that date the financial test had been a flexible one which echoed both the Legal Services Society Act and the federal-provincial agreement:

> A person qualifies for legal aid when requiring him or her to pay legal fees would impair his or her ability to furnish himself or herself and his or her family with the essentials necessary to keep him decently fed, clothed, sheltered, and living together as a family.

In October, 1982, the test became inflexible, stipulating fixed income amounts based on the poverty levels defined by Statistics Canada and related to the number of persons in the applicant's family and the population of the applicant's area of residence. If the applicant's income was above that limit, he/she was ineligible for legal aid representation unless a special exception was made and the reasons for the exception documented in a memorandum copied to Head Office.

The intent of the policy was clearly an adaptation to the exigencies of restraint, as stated in Section 5.2 of the Handbook:

> The purpose of these standards is to reduce the population of eligible applicants. There are difficulties with this policy since it means rejecting some applicants who will be unable to afford legal services without impairing their ability to feed, clothe and house themselves and their dependents.

Nevertheless, the Handbook stated that discretion existed for hardship cases, although the approval had to be documented in a memo to Head Office. Furthermore, individuals were eligible for legal services if they:

1. could not obtain the needed services from any other source; and
2. agreed to make a financial contribution where possible; and
3. satisfied one or more of the following:
    (a) had special ethnic, cultural, or linguistic needs, or
    (b) were geographically isolated from legal services, or
    (c) needed a type of service not available from another source, or
    (d) had a case which could benefit individuals, the majority of whom would be financially eligible and which could not proceed without assistance from Legal Services, or
    (e) were non-profit groups or organizations, where the services were determined to be in the interest of individuals, the majority of whom would be financially eligible.

In summary, LSS policy regarding the provision of legal services during the term of the evaluation cannot be considered in isolation from the context of restraint. The service delivery priorities adopted by the Society's Board of Directors were a direct response to restraint. Branch Offices were required to follow these priorities. CLO's were only encouraged to do so, as their Boards had priority-setting powers. Finally, both Branch Offices and CLO's were required to use eligibility standards for the legal aid plan that were considerably less flexible than under pre-restraint standards.

1.1.4 Summary

The Legal Services Society Act and the federal-provincial legal aid agreement set broad requirements for the delivery of legal aid. Much is left to the LSS in determining its own goals and objectives and internal organizational structure. Currently there is no formally approved statement of overall goals and objectives for the LSS as a whole. However, the Tariff of Fees and particularly the LSS Policy and Procedures Handbook significantly enlarge upon the Society's statutory mandate to provide legal services to the disadvantaged.

1.2 LEGAL AID - THE HISTORICAL CONTEXT

This section describes some of the major trends and issues which have characterized the history of legal aid in Great Britian, the United States and Canada. This analysis will set the stage for an examination of the history of legal aid in British Columbia, in section 1.3.

1.2.1 England

1.2.1.1 Civil Assistance prior to 1945

Formal legal services to the poor in England have a long history dating back to a statutory right to sue *in forma pauperis* in courts of common law created in 1495, during the reign of Henry VII. In practice, the statute provided the poor little concrete help. In fact, over the succeeding centuries, the Courts of Chancery tended to be more liberal in their assistance to the poor than were the Courts of Common Law. Civil legal aid to poor persons gained more formal recognition in 1883 under Rules of Court based on practices that had applied in the Court of Chancery. Under these and subsequent rules adopted in 1914, poor persons could obtain legal services upon providing proof of their financial "worth" (or more precisely, their lack of it). Solicitor and barrister were assigned by the courts to take the case without fee. The procedures applied only to litigation in the Supreme Court (and to the *in forma pauperis* procedure in appeal to the House of Lords). Both because of this restriction and because the poor were required to pay for disbursements, the number of poor persons benefitting remained very small.

In 1925, administration of the scheme was transferred from the courts to the Law Society which has maintained a central role in legal aid delivery and policy to the present day. The litigation costs were still borne on a charitable basis by individual solicitors.

Following a reform of the divorce law in 1937, the profession could no longer bear the costs of handling the divorces of poor persons on a charitable basis. When war came, there were also fears that unresolved divorce cases might affect the morale of the fighting forces. In 1942, a Services Divorce Department was established under the Lord Chancellor's department with salaried solicitors to relieve the pressure of unprocessed divorce cases. This was the first formal recognition that legal aid should be available as a matter of national interest.

1.2.1.2 Criminal Assistance prior to 1945

The Royal Commission on Legal Services in Scotland (1979) states that in Scotland the legal profession has accepted the defence of poor persons on criminal charges as a public duty since at least the sixteenth century. In England, prior to 1903, the only form of criminal legal aid to accused persons was the system of "dock briefs", in which unrepresented persons could choose counsel from barristers who were in court and willing to be selected. There was no provision to appoint a solicitor to prepare the defendant's case, and the fee paid to the barrister was extremely low. In general, only junior counsel would take such cases, often after a hurried consultation with the defendant.

Statutory provisions for criminal legal aid evolved in the early part of this century. In 1903, the Poor Prisoners Defence Act provided for legal aid in trials by indictment and in 1907, the Criminal Appeal Act made legal aid available for appeals in the Court of Criminal Appeal. The Poor Prisoners Defence Act 1930 removed the requirement that one's defence be revealed to a lower court before legal aid was granted in a higher court. It also provided for legal aid in serious summary cases and for committal proceedings. The basis on which legal aid was granted by the courts was very restrictive, and lawyers were paid at an extremely low rate.

Legal aid in England prior to 1945 was essentially a matter of charity rather than a matter of statutory right. Lawyers provided representational services either for no fee at all, or on a fixed scale which frequently involved working at a loss. Those people receiving legal aid had no assurance that they were receiving the legal expertise, time or commitment that would be available to those who could afford to pay for legal services.

1.2.1.3 The Rushcliffe Inquiry and Report

In 1944, a government committee inquired into existing facilities for giving legal aid and advice to poor persons. The resulting Rushcliffe Report of 1945 recommended major changes in the conception and framework of legal aid: legal aid should be granted in all courts and tribunals where lawyers had a right of audience; legal aid should be extended not only to the poor for free but to people of moderate means on a contributory basis; the scheme should continue to be administered by the Law Society; solicitors and counsel should be paid reasonably for services rendered; and a scheme of legal advice should also be instituted, provided by salaried solicitors employed by the Law Society in various centres of population. The committee also recommended that legal aid should be available in all cases in criminal court where this was desirable in the interests of justice, and that any doubt should be resolved in favour of the applicant. The scheme should continue to be administered by the courts, but solicitors and barristers should be adequately remunerated.

The Legal Aid and Advice Act (1949) embodied most of these recommendations in statutory form, but the entire Act was only gradually implemented over a period of about 25 years. For example, provision for legal aid was extended to lower courts in stages during the 1950's, but the legal advice scheme was not implemented until 1959. Rushcliffe's recommendations for a salaried component have never been implemented. The present English legal aid system is based on the Legal Aid Act 1974, as amended.

1.2.1.4 Scope of English Legal Services Today

There are three primary components to the legal aid system in England and Wales. The first component, called the "green form" scheme, provides legal advice and assistance to financially eligible individuals. Individual solicitors assess an applicant's financial means, assess and collect any contribution the applicant might be required to make, and bill the Law Society for the balance of their fees. The overwhelming majority of services have involved matrimonial and family law, with criminal matters second and a number of other areas such as landlord and tenant law and debt a distant third.

Since 1980, the green form scheme has provided for assistance by way of representation in domestic proceedings (i.e., matrimonial and family law) in magistrates' courts. After making a financial assessment, the solicitor must obtain approval from a local Law Society legal aid office before providing any assistance by way of representation.

The second component of the legal aid system is legal aid in civil cases. Although clients may choose their own solicitor, the financial eligibility assessment, the fixing of any contribution requirement, and the assessment of the advisability of pursuing the case rest with the Law Society's legal aid local committee. The committee in turn refers the eligibility and contribution assessments to the Secretary of State. The large majority of cases handled under this scheme involve matrimonial or family law.

The third scheme is criminal legal aid. The decision whether to grant legal aid is made by the court, the means assessment being the same as in the civil scheme. Except where a person is committed for trial on a charge of murder, the granting of criminal legal aid to a financially eligible applicant lies within the discretion of the court in those cases "where it appears to the court desirable to do so in the interests of justice". This discretion is widely exercised. Although about 25% of criminal legal aid applications are refused, some 63% of persons appearing in magistrates' courts on indictable charges or for committal, and some 96% of persons appearing in Crown Court for trial received criminal legal aid in 1981.

The Legal Aid Act 1982 institutionalized a duty solicitor scheme. Solicitors now provide preliminary advice to accused persons prior to first appearance, aid in bail applications, and take legal aid applications. Service is available to any accused person. Duty solicitors receive a fixed sessional fee for the days they are available.

1.2.1.4.1 Administration

Administration of legal aid services is divided. The Law Society administers the "green form" scheme and civil legal aid through 15 area committees in England and Wales, each area committee overseeing numerous local committees. The Law Society's legal aid activities are funded through the Lord Chancellor. The criminal legal aid scheme is administered by the courts and, until 1981, was responsible to the Home Secretary. The Royal Commission on Legal Services (1979) had recommended that ministerial responsibility for all three schemes should be vested in the Lord Chancellor's Department, but that actual administration of the schemes remain shared between the courts and the Law Society. This recommendation was accepted and in July, 1981, responsibility for criminal legal aid was transferred to the Lord Chancellor.

The criminal legal aid system is decentralized to the extent that individual courts apply varying standards of stringency in assessing the need for legal aid, resulting, for example, in remarkable disparities in coverage in magistrates courts from area to area. The Legal Aid Act 1982 vested some oversight responsibility for criminal legal aid in the Law Society's local area committees. Though the relationship between the local committees and local courts remains to be fully worked out, the local committees appear to exercise responsibility for requests for barristers, requests to change solicitors, requests for extraordinary expenditures, and for revocation of legal aid certificates. Local area committees of the Law Society now also appear to take appeals from a court's refusal to grant legal aid.

The civil legal aid system is more centralized and uniform in its application, as there is more opportunity for communication between Law Society area committees than there is between different courts. This advantage is counter balanced by the fact that the overall system is not specially designed to be responsive to local delivery needs and local socio-legal concerns.

1.2.1.4.2 Service Delivery

Since the legal aid plan's inception in 1949, legal services have been provided almost completely by private rather than salaried lawyers. (The original Rushcliffe Committee recommendations for a salaried component, primarily dealing with advice rather than representation, have never been implemented, although the authority to do so is contained in the Legal Aid Act; the advice component provided by private solicitors was not implemented until 1959.) The legal aid system has essentially been reactive: solicitors and barristers provide legal aid services to clients who have approached them directly or who have been referred to them by other agencies.

Since 1970, there has been some experimentation with the concept of Law Centres, which offer services without charge, using salaried lawyers and paralegals. They have a measure of community control and participation in that they are governed by community boards, and often provide services to particular community groups or address community political-legal issues. On the one hand, the Law Centres represent a particularly English form of community based, proactive alternative to the uniform and reactive nature of the civil legal aid plan. On the other hand, their original inspiration can be traced to the American neighbourhood law firm concept (see Section 1.2.2). From one Law Centre in 1970, this network grew to 27 in 1978 (the majority in London), and to about 40 in 1983.

In the early 1970's, the Law Centres were sustained primarily by private foundations, local governments or central government urban development funds, but in the late 1970's and early 1980's, they received growing support from the Lord Chancellor's office. Both the Lord Chancellor's Advisory Committee and the 1979 Royal Commission on Legal Services gave the Law Centre concept strong endorsement, although the Commission specifically argued that the political roles frequently played by the Centres were inappropriate for a legal aid service.

1.2.1.4.3 Entitlement and Restraint

The English legal aid system is basically an entitlement system. Coverage is defined flexibly in several sets of non-statutory criteria. Anyone meeting the criteria is entitled to legal aid. Traditionally, there have been few limits on legal aid system expenditures. As one commentator put it:

> The system is open-ended, the courts granting, Parliament unable to set a fixed limit. Criminal legal aid is the fastest growing social service in Britain, £8M in 1970, £100M in 1982. (Alec Samuels, "Criminal Legal Aid: The Issues of Principle," [1983] Criminal Law Review 223.

The escalating cost of legal aid has become a matter of substantial concern in England in recent years. In 1979, the Royal Commission on Legal Services (Cmnd. 7648) recommended creation of a statutory right to legal aid in all criminal cases except purely summary cases in which the court was convinced that there was no likelihood of incarceration, deportation, or substantial damage to reputation or livelihood upon conviction - a standard very similar to that adopted by British Columbia in the Legal Services Society Act 1979 (R.S.B.C. 1979, ch. 227). The Royal Commission recommendation has not been accepted. The Justices' Clerks' Society opposed it and subsequent amendments to the Legal Aid Act 1974 (see, e.g., the Legal Aid Act 1982) appear to have travelled in a very different direction.

A substantial number of economies have recently been instituted. Certificates appointing barristers as counsel in the lower courts are now rarely given. The green form scheme is now used to provide summary legal advice in lieu of far more costly representational services in many cases where full representation would previously have been given as a matter of course. The expanding duty solicitor scheme is seen by many as offering a cheaper alternative to legal aid representation in many cases. Contributions from legal aid clients now appear to be required as a matter of course and even criminal defendants appear to be required to make down payments on their contributions before legal aid services are given. The Lord Chancellor has been pressing a seven-point program to improve the efficiency and cut the costs of legal aid (A. Samuels, "Criminal Legal Aid: The Issues of Principle," [1983] Criminal Law Review, 223, at 234.)

There also appears to be discussion of a number of cost-saving changes to the criminal legal aid scheme. Among issues under discussion are withholding legal aid from the "unmeritorious accused" - frequent, serious recidivists, or those who lie about their financial resources, for instance - the replacement of a flexible solicitor's and barrister's fee schedule with a fixed fee system; and the adoption of an incentives scheme that would reward lawyers for good pre-trial work that avoids the necessity of protracted court time.

Nevertheless, the English system is currently an open-ended entitlement system. The courts grant criminal legal aid applications. The Law Society grants civil legal applications. Eventually, the bill is presented to Parliament.

1.2.1.5 Summary

Legal Aid in England prior to 1945 was based on a system of charity. The Rushcliffe Report in 1945 represented a major shift from this orientation to one in which eligible individuals could be represented by qualified lawyers whose fees would be paid by the state. The Legal Aid and Advice Act (1949) and its successors, particularly the Legal Aid Act, 1974, have gradually implemented major elements of the report. The resultant scheme of legal aid in England today is reactive, decentralized and based on payment to private lawyers for representation and advice services provided to individuals. There is a legislated right to legal aid, but that right is conditioned by broad grants of discretion to the Law Society and the courts to decide whether any particular case warrants legal aid "in the interests of justice." Since 1970, a more proactive mode of service delivery has developed in the form of Law Centres. This mode employs salaried lawyers and paralegals and provides services to groups as well as individuals. While such centres developed rapidly in the 1970's and received growing government support, they do not significantly challenge the basic judicare orientation of the English legal aid plan.

1.2.2 United States

Legal aid in the United States developed in a different legal environment from that in which English legal aid developed. The forms and structures of American legal aid, and the pace of development of legal aid systems have also been different.

The legal profession in the United States is unified. That is, a qualified lawyer is entitled to perform all of the functions reserved to the English solicitor, and is also entitled to perform all of the functions reserved to the English barrister. Legal jurisdiction, however, is divided among a central federal government and 50 state governments. The result is that there is a large number of independent but related legal systems which are free to organize systems of law, systems of courts, and legal professions in rather different ways, subject to a few minimum standards derived from the constitution.

The American Bill of Rights provided a constitutional right to legal counsel in criminal cases long before such a right was constitutionally recognized in English law. This right was consistently interpreted by the American courts, until very recently, to be a right to retain and instruct legal counsel from private resources rather than as any absolute right to have legal counsel provided. No constitutional provision guaranteed any right to legal counsel in civil matters.

American legal aid developed from two sources. First, lawyers recognized a professional duty to provide occasional legal services to the poor on a charitable basis. Second, some lawyers and legal systems recognized that the adversarial theory of common law required balanced legal representation so that the triers of law and fact received balanced presentations of contested positions.

1.2.2.1 Civil Legal Aid Before 1964

The first legal aid societies developed in the large cities of the industrial northeast and mid-west in the last third of the 19th century. Privately funded, drawing support from charitable organizations and local bar associations, the legal aid societies provided legal advice and civil litigation services to the poor. By 1919, most large American cities boasted legal aid societies. During the 1920's and thereafter, the American Bar Association took an active role in forming and coordinating the activities of local legal aid societies.

By 1962, there were 236 legal aid organizations (including 93 volunteer-based societies) providing civil legal aid to poor people in the largest American cities. They were almost totally supported from charitable sources, were decentralized in the extreme, and were oriented solely to individual services.

1.2.2.2 Criminal Legal Aid

Though the American Bill of Rights made provision for the right to cousel in criminal cases, before 1867 that right was limited to proceedings under federal criminal law. After the adoption of the 14th Amendment to the U.S. Constitution, the right to counsel applied to state criminal proceedings as well. During the 19th century that right was consistently held to create only a right to *hire* legal counsel. It was not seen as creating any claim for the provision of defence counsel to poor people at government expense.

The development of government prosecuting attorneys created an imbalance in the theory of justice and many different systems for providing legal counsel to the criminally accused developed at the local and state level. In some places, legal aid societies broadened their mandate to provide criminal defence services. In many places, the local bar provided criminal defence on a charitable basis or for some token remuneration from the government through a system of court assigned counsel. The first public defender office, with salaried lawyers providing defence services to all indigent accused, was established in Los Angeles in 1910. By 1962, the number of public defender offices had grown to 90. In most jurisdictions, however, criminal defence for poor people was still provided on a charitable basis by private practitioners.

1.2.2.2.1 The Criminal Legal Aid Revolution

In 1963, in the landmark case *Gideon* v. *Wainwright* 372 U.S. 335, the United States Supreme Court reversed a century's precedents and held that the constitutional right to counsel required that legal counsel be provided at government expense to any indigent person accused of a felony offence (one providing for a jail or prison sentence exceeding one year upon conviction). All American jurisdictions were obliged to make provision for some form of paid criminal defence for indigent accused. Different jurisdictions adopted judicare and staff lawyer models. By 1971, public defence cost $127 million a year. There were over 4,000 public defenders employed by the various levels of government.

In 1972, in *Argersinger* v. *Hamlin* 407 U.S. 25, the United States Supreme Court extended the rule of *Gideon* to require government provided defence counsel for any indigent person accused of *any* offence which could result in incarceration upon conviction. By 1979, public defence costs totalled more than $600 million a year. There were more than 9,000 full time equivalent public defenders on government payrolls, and many additional salaried defence lawyers working through government-funded legal aid societies, while many jurisdictions still provided criminal defence services to poor people through judicare systems.

1.2.2.3 Civil Legal Aid Since 1964

The mid-1960's marked a period of major innovation in the delivery of civil legal aid in the United States. The federal government entered the field through the legal services programs of its controversial Office of Economic Opportunity (OEO), the key agency in the Johnson Administration's "war on poverty" of 1964-1968.

The OEO built all of its anti-poverty programs around the sociological theory that poverty and the characteristic legal problems of the poor were, in large measure, produced by social and legal structures which blocked poor people's access to social and economic opportunities. The theory argued that opening access to oppportunity, while at the same time involving poor people in the operation of the organizations and agencies that were doing so, would go a long way toward the eradication of poverty as a social reality.

Based on this theory, the OEO developed a wide variety of local, neighborhood-based opportunity development programs. Notable examples outside the legal arena include Operation Head Start, intended to provide supportive educational experiences for pre-school age children in poor neighbourhoods, and the Job Corps, intended to provide skilled job training for otherwise unemployable youths and young adults.

The legal services programs developed by OEO had three important components: a commitment to individual service based on the legal aid society tradition; a commitment to law reform through test case litigation and political activism derived from the tradition of such legal organizations as the American Civil Liberties Union and the Legal Defense Fund of the National Association for the Advancement of Colored People, and mandated by the theory of legally blocked access to opportunity; and a commitment to locally based and directed service delivery organizations. The model delivery mechanism for OEO legal services, and the continuing base for civil legal aid in the United States since the mid-1960's, is the neighbourhood law firm (NLF).

The neighbourhood law firm is federally funded but locally based, with a board of directors at least partly drawn from the local community, including representatives of the population receiving service. The NLF provides a range of legal services - information and advice, assistance, and litigation representation - through salaried staff lawyers and paralegals. The original NLF's were also active in law reform, both through test case litigation and through lobbying and other forms of activity intended to affect the legislative process. Moreover, NLF's were expected to be actively involved in community organization and to actively seek out problems for legal resolution.

The legal services programs were among the most successful created by the OEO. From a beginning of 27 NLF-type projects in 1965, the legal services agencies funded under the legal services programs grew to 320 in 1977, employing approximately 3700 lawyers.

Some of the more proactive features of neighbourhood law firms (NLF) have been test cases, class actions, aggressive community outreach, mobile offices, "back-up centres" which engage in research and appellate litigation in specific problem areas (e.g. health, or housing), the formation of political pressure groups, community controlled priority setting, and community representation on local NLF boards. Law reform became the dominant ideology although this stance was tempered in succeeding years.

Despite the more visible nature of law reform programs, the primary activity of NLF's has always been individual case work for the poor. Individual case work has been estimated "conservatively" at 70-80% of staff time even for such controversial programs as the California Rural Legal Assistance Project. The civil case work of NLF's has tended to have a broader focus than that of traditional legal aid societies, including not only family and consumer matters, but housing, employment and a range of administrative issues of importance to poor people.

1.2.2.3.1 Proactive Legal Services Under Fire

The OEO was, from its beginning, politically controversial. The Nixon administration largely dismantled the OEO. The legal services program was one of the few surviving components.

The Legal Services Corporation Act of 1974 created an independent, federally funded corporation run by eleven presidentially appointed directors to carry on the work of the OEO legal services programs. The corporation contracts with local legal services agencies (most of which were NLF's funded through the OEO) which provide civil legal aid to poor people through staff lawyers and paralegals.

The Act, and regulations adopted in 1978 by the Carter administration, substantially reduced the range of proactive legal services provided by contracting legal agencies. Funded legal services agencies and their employees are specifically barred from political activity, from lobbying, from community organization, from training others in community organization or action in the form of boycotts, strikes, picketing or demonstrations. The Act also specifically forbids funded agencies to engage in criminal defence or collateral attacks on criminal convictions by means of *habeas corpus* litigation, or to provide legal services with respect to specific legal issues: the procurement of abortions; the desegregation of schools; and proceedings arising out of selective service (military conscription) law.

The Act also mandated a study of alternative modes of civil legal aid delivery. Between 1975 and 1980, the Legal Service Corporation's (LSC) delivery systems study examined 38 "non-staff attorney" demonstration projects which provided civil legal aid through five alternative forms of legal service delivery: judicare; pre-paid legal insurance; contracts with law firms; a voucher system; and *pro bono publico* volunteer schemes. Except for the voucher system, all were found to be viable methods for the delivery of civil legal aid. Private lawyers now handle about 10% of the legal service caseload. The NLF, however, remains the primary mode of civil legal aid delivery in the United States.

The Legal Services Corporation remains politically controversial. The Reagan administration has consistently opposed continuation of the LSC. Each Reagan budget has proposed zero funding for the LSC, and the President has allowed vacancies on the LSC board of directors to remain unfilled for long periods of time. Between January and October, 1983, the LSC appeared to have been refunded by the Congress for an additional three year term, at something in excess of $250 million per annum. In October, 1983, the President nominated seven people to fill the vacancies on the LSC Board.

1.2.2.3.2 Expansion of The Right to Civil Legal Aid In California in the 1980's

California has served as a trend setting jurisdiction in the development of legal aid in the United States.

California set up the first Public Defender office and California was home to some of the most aggressive and successful of the federally-funded neighbourhood law firms. Recently, California has begun to assert that indigents have a constitutional right to legal counsel in civil litigation that must be met by the organized bar on a gratuitous basis when no funded civil legal aid agency has the resources to undertake the case.

The California courts have established the principle that fundamental fairness and due process of law require the appointment of counsel for indigent civil defendants in state initiated paternity suits (*Salas* v. *Cortez* (1979) 24 Cal 3d 22 (Sup. Ct. Cal.)) and for indigent prisoners sued in private civil cases (*Payne* v. *Superior Court* (1976) 17 Cal 3d 908 (Sup. Ct. Cal), *County of Fresno* v. *Superior Court* (1978) 82 Cal. App. 3d 191 (Cal 5th Dist. C.A.), *Yarbrough* v. *Superior Court* (1983) 197 Cal. Rptr. 737 (Cal 1st Dist. C.A.)). The courts have consistently held that lawyers appointed in such cases have a professional duty to do so gratuitously, *pro bono publico*, unless and until the state legislature creates some payment mechanism. (*Payne* v. *Superior Ct.*, *Supra*; *County of Tulare* v. *Ybarra* (1983) 143 Cal. App. 3d 580 (Cal. 5th Dist. C.A.)).

The California legislature extended this judicially developed line of reasoning into a general mechanism for providing civil legal aid *pro bono publico* through amendments to the Code of Civil Procedure in mid 1983 (California Statutes of 1983, ch. 279). These amendments provided that a legal service agency lawyer could withdraw from a civil legal aid case on the ground that a reduction in public funding for legal services had impaired the legal service lawyer's ability to represent the client. When such a withdrawal occurs, the legislation authorizes the court to appoint "...any member of the bar or any law firm or professional law corporation to represent the indigent client without compensation...".

A commentator in the state bar journal characterized the California trend this way:

> "The slack created by the defunding of legal services for indigents will be filled by declaring the services of every California lawyer a public resource.....we will hear exhortations from judges and bar leaders to mount our white horses and ride to the rescue of the thousands of

> indigents who have been abandoned by the callous cost cutters in Washington and Sacramento." (Gerald F Uelman, "Attorneys as a Public Resource," 4 California Lawyer 9-10 (1984)).

The same commentator urges resistance, not to the idea of constitutional right to civil legal aid, but to the idea that lawyers might be required to provide the service for free:

> The obligation to provide counsel is one that the Constition imposes on the state, not the State Bar. If we don't insist on that distinction, we can rest assured that the state will find many new ways to exploit the public resource we have become. Uelman, Supra at 10.

1.2.2.4 Summary

The complexity of the American legal and jurisdictional environment has produced a legal aid system markedly different from that of England and Wales. The criminal legal aid system is mandated by the American constitution. All jurisdictions are required to provide criminal legal aid to any indigent person who might lose his/her liberty upon conviction. Defence services are provided by all levels of government, depending on the jurisdiction, and by a variety of methods: public defenders; contract law firms; paid assigned private counsel (judicare) systems; and ad hoc assigned counsel.

Civil legal aid is funded by a federal government agency, the Legal Services Corporation, which contracts with local legal services organizations. The contemporary civil legal aid system developed out of the proactive legal services programs of the OEO during the late 1960's and early 1970's. Despite restrictions on its proactive role, the neighbourhood law firm remains the dominant form of civil legal aid delivery. There is no generally acknowledged constitutionally mandated right to civil legal aid. Standards of eligibility are set from time to time by government regulation. California, however, has accepted the principle that civil legal aid is constitutionally mandated and appears to believe that the organized bar must meet this obligation pro bono publico on a gratuitous basis.

1.2.3 Canada

The developments in England and the United States described above have had considerable impact on the formation of legal aid structures in Canada. In general terms this impact has been experienced as an ongoing debate about the relevance to the Canadian scene of competing models: the reactive judicare model of England; the decentralized (in terms of priority setting and community participation) proactive neighbourhood law firm model derived from the United States; and the staff counsel approach used in the United States. The struggle between these alternatives has occurred primarily in the provinces, to which the British North America Act assigned exclusive legislative authority in the administration of justice and in matters of property and civil rights. At the same time, the federal government has been a significant force because of its cost-sharing powers and its jurisdiction over criminal legislation.

Prior to the implementation of formal legal aid schemes in all provinces in the 1970's, the history of legal aid in Canada was primarily one of voluntary or charitable activity similar to that which existed in England prior to 1949. Law Societies, local chapters of the Bar Association and law schools were most frequently involved in the organization of these activities. In criminal matters there were sometimes provisions through court rules, dock brief systems or departmental policies for representation of the indigent in exceptional circumstances.

1.2.3.1 Ontario: The First Statutory Scheme

The earliest legal aid plan formally estalished by statute was created in Ontario under the Law Society Ammendment Act (1951). The Ontario scheme was influenced by the Rushcliffe Report and the Legal Aid and Assistance Act (1949) in England. The Law Society of Upper Canada had appointed a committee in 1948 which, after visiting England to gather information, recommended a scheme similar to that proposed in the Rushcliffe Report. In fact, the legal aid plan which was implemented in Ontario was similar to the Rushcliffe proposals only in its judicare orientation and administration by the Law Society. It was different in that it combined both criminal and civil legal aid, and more importantly, in that services were provided by volunteer rather than paid lawyers. In addition, financial eligibility standards were much more stringent than in England. The plan did not, therefore, signify the same transition from a charity or need concept to one of legal aid as a matter of legislated right, as in England.

This transition did not occur in Ontario until the passage of the Legal Aid Act in 1966, after a joint provincial government committee had determined that the voluntary program was incapable of meeting demand. The new plan, in which lawyers were remunerated, was again based on a judicare model. It provided for both criminal and civil legal aid, and for a system of duty counsel. The plan continued to be administerd by the Law Society, but the legislation also created an Independent Advisory Committee to represent the interests not only of the bench and bar, but also the general public.

1.2.3.2 Federal Initiatives

Whereas Ontario committed itself relatively early to the judicare model, the other provinces were, by the late 1960's, still running schemes on a voluntary basis under the auspices of their respective Law Societies, experimenting with pilot projects with government funding, or initiating university-based legal assistance clinics utilizing law students. In the early 1970's the federal government entered the legal aid field with two federally-initiated programs. The first, in 1970, was the provision of demonstration grants by the Department of Health and Welfare to four community law projects with salaried staff in Toronto, Halifax, Montreal and Saskatoon. All four clinics stressed that their objectives encompassed not only legal services to individuals, but also an emphasis on law reform, community organization and community representation on their boards. In this sense they were philosophically allied to - and in part inspired by - the American neighbourhood law firm model. The significance of these projects was that they provided an alternative model to judicare as the provinces moved closer to deciding the types of legal aid delivery structures which they would implement.

The second federal initiative came in 1972, when the Department of Justice began negotiating criminal legal aid cost-sharing agreements with the provinces (see discussion in Section 1.1.2). During the period 1970-1975, most provinces developed statutory legal aid schemes covering not only criminal, but also civil matters.

1.2.3.3 Provincial Legal Aid Schemes: Differing Emphases

Although all provinces established legal aid schemes in which lawyers were remunerated, they differed in the extent to which they drew upon the English or American models. The Yukon, the Northwest Territories, New Brunswick and Alberta operate exclusively on the judicare model. Ontario continues to operate primarily on a judicare basis, although by 1982 there were 39 "community legal clinics" run by local boards of directors which contracted annually with the province's Clinic Funding Committee.

Nova Scotia and Prince Edward Island use a salaried staff model, although unlike American neighbourhood law firms, the delivery philosophy tends to be reactive and the administration centralized. Saskatchewan also relies primarily on a salaried staff, but until 1983 its orientation was more proactive and decentralized than other provinces. It had thirteen legal aid areas run by community boards representing community groups. These boards were financed by annual contract with the Saskatchewan Community Legal Services Commission. In 1983, these boards were eliminated and Saskatchewan now has a centralized system.

The rest of the provinces (British Columbia, Manitoba, Newfoundland and Quebec) operate mixed systems, using both private lawyers and community law centres with staff lawyers and paralegals. British Columbia's system resulted from an amalgamation of the judicare-oriented Legal Aid Society and the community law office structure formerly administered by the Legal Services Commission (see next section).

The administration of the British Columbia system is partly centralized and partly decentralized. The Legal Services Society determines the funding functions and priorities of its Branch Offices. The Community Law Offices are governed by community boards which set local priorities, and contract annually for funds with the LSS.

Most of Manitoba's seven community law centres have Citizen Advisory Committees, allowing for some input into the operation of local centres, but without the degree of control evident in Saskatchewan before 1983. The Advisory Committee system is currently under review. Newfoundland's local offices are directly funded and there is no provision for local priority setting. Quebec's Commission des Services Juridiques administers legal services through 11 regional corporations, which in turn oversee the operations of some 145 offices. There are also two local corporations in two of the regions.

The provincial legal aid plans are financed by the provincial government directly and indirectly by the federal government though funds committed to the general revenue under the federal-provincial cost sharing agreement. The plans receive some funds from interest on lawyers' trust accounts. While primarly financed by government, only the plan in Prince Edward Island is directly run by a government

Edward Island is directly run by a government department. Ontario and New Brunswick have systems administered by their respective law societies. All the remaining provincial schemes are run by an autonomous commission, corporation or society which, except for Alberta, has been created by statute.

Because of the federal-provincial cost-sharing agreement on criminal legal aid, coverage for criminal matters tends to be fairly uniform across the provinces. Until restraint programming in British Columbia, only Alberta specifically exercised the discretion allowed it under the agreement to limit legal aid for second offences or where an applicant had already received a large amount of legal aid. All other provinces stated that legal aid was available for indictable offences and for summary offences where imprisonment or loss of livelihood was likely.

On July 19, 1983, the Legal Services Society of British Columbia announced that it would no longer provide legal aid for repeat summary conviction offences or for cases where there was a related prior conviction. This policy was changed and full coverage for all criminal cases in which there was a risk of imprisonment or loss of livelihood was reinstated following the British Columbia Court of Appeal decision in Mountain v. Legal Services Society in November, 1983. An amendment to the LSS Act permitting reduced coverage may yet be enacted in British Columbia.

Several provinces, including British Columbia, Nova Scotia and Manitoba had specific projects serving inmates in penitentiaries. Duty counsel schemes supplemented regular criminal coverage in British Columbia, New Brunswick, Manitoba and Ontario.

In civil matters, coverage and emphasis are more varied. Alberta and Prince Edward Island have only limited family civil coverage. Other provinces and territories such as British Columbia, Newfoundland, the Yukon and the Northwest Territories consider the merits of each individual civil case. Most provinces have civil coverage exclusions for at least some relatively uncommon matters such as breach of promise cases, defamation cases and proceedings relating to elections. In general, those provinces with community law office-type structures tend to offer broader civil coverage than those operating on a judicare model, most notably in administrative matters (e.g., unemployment insurance, welfare, rental matters, workers' compensation) of concern to disadvantaged groups.

The extent of proactive activities, specifically public legal education [PLE] and community development, also varies across the country. British Columbia has an active public legal education program offering centralized funding, consultation and material support to teachers, librarians and community groups while maintaining decentralized local PLE programs through Society Branch Offices and Community Law Offices throughout the province. Quebec also produces legal materials for popular consumption, maintains active radio and television programs, and encourages regional corporations to conduct public legal education activities and special projects. Prior to the recent reorganization of legal aid in Saskatchewan, most local area boards undertook preventive law programs in their communities, but with less systematic centralized support than in Quebec and British Columbia. The same applies in Ontario and Manitoba. In general, community development activities with disadvantaged groups tend to be limited and dependent on individual or local initiatives. Somewhat an exception to this general pattern is Quebec, which gives official encouragement to community development activities and reports them fully for each office in the Annual Report.

1.2.3.4 Summary

This brief historical account of legal aid in Canada and summary of the differing provincial systems has made frequent reference to the idea of competing American and British models. One commentator has referred to the mixed delivery and administrative structures of the provinces as the "Canadian Compromise" between the two models. This label by and large holds true. The main aspects of this compromise can be summarized as follows:

1) Even where the primary orientation of the provinces is towards the British system of delivering legal aid by referral to private lawyers, most provinces have a significant admixture of staff lawyers.

2) Staff lawyer systems of delivering legal aid in Canada cannot automatically be equated with the staff lawyer system of American neighbourhood law firms because, in most cases, policy and financial allocations in Canadian provinces are determined centrally, and the focus of legal aid activity is not unlike that of a judicare system. The American neighbourhood law firms, which in most cases are now funded through the Legal Services Corporation (LSC), have a history of local input

into policy and an interest in test cases, class action suits and outreach activities. The neighbourhood law firms funded by the LSC have had their range of activities restricted in recent years, but the history of such offices is quite different from that of most staff lawyer operations in Canada.

3) Unlike their American and British counterparts, Canadian legal aid systems provide both criminal and civil legal aid through the same delivery structures.

1.3 THE HISTORY OF LEGAL AID IN BRITISH COLUMBIA

The history of legal aid in British Columbia involves two strands which only recently became interwoven. The first and much longer thread is the gradual development of a judicare-type legal aid scheme. The second is the relatively recent history of community law offices and various forms of proactive legal services. These two historical strands are treated separately up to 1979, when they came together with the formation of the Legal Services Society.

1.3.1 The Legal Aid Society and its Antecedents

1.3.1.1 Early Volunteer Legal Aid Activities

The earliest formal consideration of legal aid in British Columbia appears to have occurred in 1934, when the Law Society urged local bar associations to establish legal aid societies, following examples set during the two previous years in Alberta, Manitoba and Ontario. Although the Victoria and Vancouver Bar Associations started legal aid clinics for civil matters shortly thereafter, and although further consideration was given to a more comprehensive legal aid scheme by the Benchers of the Law Society in 1939, these activities were put aside with the onset of World War II. Despite this lapse in the development of a public legal aid scheme, the Department of National Defence, in coopertion with the Canadian Bar Association, maintained an active legal aid program for members of the armed forces.

In 1949, the Victoria Bar Association reactivated its legal aid clinic, followed in 1950 by the Vancouver Bar Association. The clinics were held on a weekly basis, with volunteer lawyers screening applicants, giving summary advice and referring cases to lawyers willing to act for free. These clinics were for civil legal aid only.

Provision for assistance in criminal matters prior to 1952 was less formalized. For some time, at least prior to 1940, the Department of the Attorney-General had provided an honorarium to lawyers for the defence of persons in capital cases, but it was very modest, and not consistently available. A small group of criminal lawyers in Vancouver also provided assistance and representation to indigent individuals on an informal basis.

1.3.1.2 The First Organized Volunteer Scheme

In 1952, the Law Society, with the assistance of local bar associations, broadened the delivery of legal aid to include the whole province and both civil and criminal matters. In Victoria and Vancouver, the clinics continued on a weekly basis, although much of the administration of the criminal plan and referrals devolved on the prosecutor's office in Vancouver. In other areas of the province an applicant would write to the secretary of the Law Society, who would then appoint a lawyer if the case merited legal aid. Both civil and criminal coverage were quite restricted. For example, legal aid for divorces required a medical certificate stating that the divorce was essential for the health of the family, a requirement which existed until 1972. Criminal legal aid was primarily for first offenders in "serious" cases, usually on a recommendation by the John Howard Society or the Salvation Army.

In 1964, the Attorney General agreed to pay honoraria of $30 per day for minor indictable matters and $50 per day for serious indictable matters, plus disbursements. Despite this small contribution from the province, legal aid was essentially a voluntary system relying on the charitable impulses of individual members of the bar. By 1968, the demand for legal aid services was beginning to overwhelm the Law Society's ability to handle cases on an essentially charitable basis.

In 1970, K.E. Meredith presented a report to the Annual General Meeting of the Law Society recommending the incorporation of a Legal Aid Society to handle the administration of civil and criminal legal aid. The report was based, in part, on a first hand study of the Ontario plan by Angus Smith of the Law Society, and recommended a system broadly similar to that in Ontario. The Law Society accepted the recommendations of the report.

1.3.1.3 The Legal Aid Society's Judicare Scheme

The Legal Aid Society was created in 1970 with financial support from the Law Foundation and the provincial government. This permitted the establishment of an office in Vancouver, and the hiring of a permanent director and two staff lawyers. The Vancouver office coordinated province-wide legal aid services through volunteer Area Directors. The scheme was essentially run on a judicare model, with the Vancouver office and Area Directors making referrals to lawyers in private practice for both criminal and civil matters. The province paid the criminal "tariff" (schedule of fees paid to the lawyers), which continued to be quite nominal. There was no tariff for civil matters, disbursements only being paid.

1.3.1.3.1 Federal-Provincial Cost Sharing

In 1972, the federal and provincial governments entered their first criminal legal aid cost-sharing agreement (see also section 1.1.2). The practical effect of the agreement was that the federal government thereafter contributed about 50% of the annual criminal legal aid expenditures in British Columbia. The federal interest in criminal legal aid is administered by the Department of Justice.

In 1972, the provincial government increased both the extent of criminal coverage and the fees paid to lawyers under the tariff. In 1973, the provincial government established a family law tariff administered by the Legal Aid Society. This was the first time a legal aid tariff had existed for a non-criminal matter in British Columbia.

In fact, the period 1972-76 was marked by a substantial expansion and reorganization of legal services for the poor in British Columbia. This might be attributable to several factors: the federal-provincial criminal legal aid agreement just noted; a change in provincial government policies in British Columbia which increased funding for some social and legal services; and the influence of the American model of legal services. (On several occasions from 1968 on, representatives of first the Law Society and then the Legal Aid Society visited the Seattle OEO legal services office for information purposes.)

The Federal Department of Health and Welfare has maintained a cost sharing program for civil legal aid since 1980. The Canada Assistance Plan shares 50 percent of the cost of civil legal aid services purchased for persons in need of assistance by provincial welfare ministries and also shares 50 percent of related administration, training and research costs accrued by the civil legal aid organizations from which services are purchased. The CAP program appears to have some of the open-ended entitlement funding characteristics of the English civil legal aid scheme.

Federal cost-sharing in recent years has been paid for some 90 percent of shareable civil legal aid claims submitted by Ontario and some 97 percent of shareable claims submitted by Quebec.

British Columbia first considered seeking cost-sharing for civil legal aid services under the Canada Assistance Plan in 1976, and successfully filed CAP claims for 1978 and 1979. Civil legal aid cost sharing in British Columbia totaled about $700,000 over the period 1978-79. Unfortunately, record keeping problems have prevented the Legal Services Society from successfully filing CAP civil legal aid cost-sharing claims in recent years and no CAP payments for civil legal aid have been made since 1980. Recent improvements in LSS information systems coupled with joint federal-provincial discussions hold out the promise of significant federal-provincial civil legal aid cost sharing in British Columbia in the near future.

1.3.1.4 Creation of a Staff Counsel Network

In 1972, the Legal Aid Society proposed an expansion of its services and a diversification of its delivery methods. The proposal involved the creation of 15 legal aid offices throughout the province, each staffed with two lawyers and two secretaries. Although the main delivery method would continue to be referral to the private bar, staff lawyers would provide summary advice on criminal and family law problems, represent clients, act as duty counsel in criminal courts and make referrals to the private bar. The Attorney General approved the proposal, and the first Branch Office was opened in Prince George in 1972. From a further eight offices at the end of 1974, the Legal Aid Society reached its proposed objective of 15 Branch Offices and 30 staff lawyers in 1976.

In general, this move towards a mixed rather than a purely judicare service delivery model was not seen as a particularly contentious matter. Although some private lawyers viewed the incursion of a salaried legal aid office into their community as a threat to their own practices, the Legal Aid Society saw several advantages in the change. It was a way of providing service in communities where there were too few private practitioners to meet the demand for legal aid, and it allowed for greater flexibility in the nature of service. Although much of the legal aid work initially undertaken by staff lawyers was in the criminal (and duty counsel) area, the Legal Aid Society encouraged staff to refer criminal and family tariff matters to private practitioners, and to concentrate on civil non-family matters.

The Legal Aid Society also developed a system of Area Directors to serve population centres which were too small to support a legal aid office. Private lawyers were appointed Area Directors and served as agents of the Legal Aid Society. They accepted applications, reviewed eligibility, and made referrals. They were paid a fee per application. Through offices and Area Directors, most of the province was covered by a network of legal aid services.

The legal aid system that had evolved in British Columbia by 1979, was, in several respects a blend of its British and American counterparts, but with significant differences. Like the former, it had a substantial judicare component (approximately 49% of its expenditures went for tariff payments to the private bar in fiscal year 1978-79), but like the latter, it contained a salaried staff component. Its administrative model was centralized, somewhat like the British system, in that criteria for legal aid coverage and eligibility were centrally determined, though local interpretation of the rules was permitted. Unlike the British or Ontario systems, it did not have a network of local area committees to make eligibility determinations or consider the merits of particular cases, although two or three offices had small committees of lawyers to provide input in various matters. Furthermore, the legal aid scheme was not administered by the Law Society, although the latter had considerable influence in the appointment of the Legal Aid Society's board of directors. (In 1972, the previously all-lawyer board was expanded to 22 members, of which 14 were appointed by the Law Society. The remaining 8 were appointed by the Legal Aid Society itself, and of this 6 or 7 were usually non-lawyers.) Finally, the legal aid plan in British Columbia differed from both its British and American counterparts in that it combined both civil and criminal legal aid under the same administrative structure.

1.3.2 The Legal Services Commission and Community Law Offices

1.3.2.1 Local and Federal Initiatives

The second strand that went into the complex structure of legal aid in British Columbia can be traced back to the late 1960's. In 1969, law students from the University of British Columbia opened three legal advice clinics in Vancouver. Working under the supervision of a lawyer, the law students provided general legal advice and assistance to individuals. This service to "people off the street" soon expanded to other locations in the city, and included representation of juveniles in court. The need for greater public awareness of the law, and the particular needs of disadvantaged groups for legal information, became readily apparent through these clinics.

The law student clinics' experience with the general public need for legal information contributed to the formation of the People's Law School in 1971. The People's Law School was initially supported by federal Opportunities for Youth grants, and was subsequently supported by the Law Foundation and the province. Primarily through student initiatives, the People's Law School sponsored free public lectures on various aspects of law and published an ongoing series of booklets on a variety of legal topics. The start of these activities could be seen as the first systematic attempt to provide public legal education in British Columbia.

In the same year, a small group of law students and young lawyers visited the OEO-funded legal aid storefront office in Seattle and were impressed by the outreach activities of its salaried legal staff. This inspiration, plus the experience of the law student clinics, led, in 1971, to the establishment of the Vancouver Community Legal Assistance Society (VCLAS) with federal start-up funding. VCLAS was the first storefront community law office with salaried staff in British Columbia. Besides assuming the supervisory role for the student law clinics, and providing direct service for some clients from these clinics, the VCLAS focussed on legal education and law reform, particuelrly through test cases benefitting the socially disadvantaged.

Just as it played a role in the establishment of the formal legal aid plan in British Columbia through its cost-sharing agreement, the federal government also supported the creation of a wider network of legal assistance operations in communities throughout the province through a number of short-term funding programs during 1972. The primary funding vehicles were Opportunities for Youth (a summer employment program), Local Initiatives Programs (a grant program providing employment for the winter months), and various Secretary of State grant programs. These projects were not restricted solely to legal services, but where such programs were funded they enabled many law students, the Civil Liberties Association, the Elizabeth Fry Society, the John Howard Society and various community service organizations to offer legal information and assistance to the general public. These services were generally provided by lay counsellors with local assistance and/or supervision from sympathetic lawyers. In addition to advice, many of these programs provided public legal education and were involved in community development related to legal matters. In 1973, several of these short term projects were able to develop a firmer basis of existence through funds from the Community Programs Branch of the provincial Department of Human Resources.

1.3.2.2 Provincial Initiatives

The election of a new government in British Columbia in 1972, led to a major assessment and reorganization of legal services in the province. The first vehicle for this change was the Justice Development Commission (JDC), created in 1973, to plan future development of the administration of justice. In 1974, the JDC's Legal Services Division established the Delivery of Legal Services Project, headed by Peter Leask. Its mandate was to examine the best ways to deliver legal services to disadvantaged people and to determine the extent of the need for legal services in the province. At the same time as this project was touring the province collecting information, the Legal Services Division began funding some of the local programs previously funded by federal grant money and the provincial Department of Human Resources.

In December, 1974, the Leask Report estimated that three quarters of the legal problems of economically disadvantaged people were not covered by the legal aid tariff, citing as one example the absence of services in welfare and unemployment insurance matters. Because the Legal Services project had discovered different legal needs in different communities around the province, Leask advocated the adoption of a decentralized system which would allow each community to choose the type of legal services it needed. At the same time, Leask felt it necessary to establish a central agency to act as a policy maker, to supervise local projects, and provide funding and back-up services.

1.3.2.2.1 Legal Services Commission and CLO's

The Attorney General's Department acted on the Leask Report's recommendations and in August, 1975, the Legal Services Commission Act was passed, creating the Legal Services Commission (LSC). The LSC took over funding of the local projects originally funded by the JDC, placing them under annual contract. The community law offices (CLO's), as these projects came collectively to be called, were independent of the Commission in that each had a board of directors that formulated local policy and priorities and set budgets. They were required, however, to submit both programs and budgets to LSC review as part of the annual contracting process.

The CLO's were expected, primarily, to provide services to individuals in matters not covered by legal aid tariffs such as welfare appeals, workers' compensation, landlord and tenant problems, unemployment insurance, small claims cases, and human and civil rights. The contracting process also stipulated that the offices undertake public legal education and community organization activities relevant to their particular communities. The 1976 LSC Report stated:

> A broader attack on poverty problems is needed and one method is by organizing sections of the community to both take group action and to engage in self-help projects... It is hoped that public education and community organizing will become a major role of the community offices and their lay staff in the future.

From their inception, all offices emphasized the use of lay staff, called "paralegals" or "legal information counsellors" (LIC's). Several of the CLO's did not (and still do not) have staff lawyers, although all have maintained some form of lawyer support and consultation. The paraprofessional approach was considered by advocates of CLO's to be less intimidating to the public than the use of lawyers, and also more appropriate to community organizing activities.

In 1976, an evaluation conducted by the Attorney General's staff concluded that the proactive philosophy was poorly understood by CLO's and poorly enunciated by the LSC. The evaluation report, entitled Cui Bono, argued that, due to lack of back-up support by the Commission, the CLO's were operating on a fairly traditional client service-oriented model. In its Annual Report for 1976-77, the Commission replied to this criticism:

> With due respect to the conclusions of Cui Bono, it is the Commission's view that the greatest need for service lies in the provision of legal services to disadvantaged people as individuals. Seeing that such individual services are provided is a first priority of the Commission.

Subsequent annual reports scarcely mentioned community development at all. Both the Cui Bono report and the Commission's reply (when compared with the desired emphasis on community development suggested in the Commission's 1976 Annual Report) indicated that the actual extent of and support for proactive legal services was problematic within the Commission. Moreover, in 1975 the provincial government entered a period of fiscal restraint. Under restraint budgets, proactive services are less likely than reactive services to receive strong government support.

1.3.2.2.2 Public Legal Education

Over and above the public legal education activities carried on by CLO's, the Commission established several departments operating out of their Vancouver headquarters to coordinate "indirect legal services" for the province. These included Public Legal Education (PLE), which funded community groups to conduct PLE activities; Legal Information Services, which provided extensive legal resource materials and back-up training in their use to libraries around the province; and the Schools Legal Education Project, which conducted workshops and provided curriculum materials on legal topics for public school teachers. These services were considered "indirect" because, rather than serving the public directly, the Commission assisted groups of professionals serving the public in local communities. The Commission also initiated periodic training courses for legal information counsellors and secretaries of CLO's. The Commission's Native Legal Services Branch - the only division specifically dealing with a target population - provided back-up support to LIC's in Native CLO's and Friendship Centres, and sponsored courses and workshops on legal matters of interest to native groups.

1.3.3 Summary: Legal Aid Society and Legal Services Commission

During the mid-1970's, two systems for the delivery of legal aid developed in parallel in British Columbia. The Legal Aid Society coordinated the criminal and family legal aid services provided by individual private lawyers, and maintained staff lawyers in legal aid offices throughout the province. The second system was based on Community Law Offices, independent local organizations in many different communities, which provided legal aid services under contract to, and with back-up support from the Legal Services Commission. This system nominally tended towards proactive legal services, although its effectiveness in this regard has been questioned. It maintained a strong paraprofessional component and was highly decentralized, especially at its inception. Both systems could be seen as adaptations of "purer" models from England and the United States. The Legal Aid Society adapted the British (via Ontario) judicare service structure to include a salaried component more suited to the needs of the province. The LSC modified the law reform emphasis of the American neighbourhood law firm model, and encouraged direct service as the primary orientation of CLO's. Simultaneously, it stressed the importance of public legal education activities, but gave only limited support to the notion of community organization and community development.

1.3.4 Legal Services Society

1.3.4.1 The Need for Amalgamation

The fact that from 1975, two systems were delivering legal aid services in British Columbia made for some tension between them. In the 1976 evaluation report, Cui Bono, the evaluators found that, with a few exceptions, office staff in the two systems viewed one another with considerable suspicion and resentment. Although CLO staff and boards generally claimed to have good working relationships with the local Legal Aid office, they were opposed to any merger of the systems, fearing the loss of locally-based community boards. The Legal Aid office staff (except for the Vancouver office) were generally ignorant about the LSC and the functioning of the CLO's. Legal Aid staff were uncomfortable about what they perceived as a blurring of social work and legal work by the CLO's. In addition to these philosophical differences, the two organizations found themselves in a somewhat adversarial role in the quest for funds. This situation became more acute with the imposition of economic restraint policies by the government late in 1975.

There were proponents within the managements of both structures who felt that, rather than exacerbate these tensions and the competition for funds, it would be wise to amalgamate the two organizations. This option was considered by both bodies in 1977, and in August, 1978, the Attorney-General formally proposed an amalgamation. The Legal Services Society Act gave effect to the proposed merger, and was proclaimed on October 1, 1979.

The objects of the Society, (stated in Section 1.1) are a more general restatement of the objectives of the predecessor organizations. The respective programs were also carried forward, creating a complex, hybrid administrative structure. A hybrid structure for legal service delivery is not unusual in Canada. As noted in Section 1.2.3.3, five other provinces operate a mixed delivery system. However, it can be said that British Columbia's system is broader in scope and more mixed in delivery methods than those in the other provinces operating mixed systems.

1.3.4.2 Amalgamation Problems at the Local Level

Since 1979, the two sub-structures within LSS have remained relatively intact, although there have been some amalgamations and blending of functions at the local level. The first amalgamation - actually predating the amalgamation of the parent bodies by three years - was the Law Centre in Victoria. This is a combined service of the former Legal Aid Society, Community Action Legal Assistance (a former CLO), and the University of Victoria Faculty of Law and School of Social Work. The 1976 Legal Services Commission Annual Report hailed this combined service as a possible "Blueprint for the Future". The unique strength of the Law Centre is its extensive use of law students for summary advice and some representation work. While this is a particularly appropriate arrangement for Victoria, it makes a less appropriate model for other British Columbia offices since, except for Vancouver, they do not have an available supply of law students. The creation of a board of directors for the Law Centre was also unique, and raises the broader issue of whom such boards should represent. The Commmunity Action Legal Assistance component of the combined service already had a Board which was largely composed of representatives of the disadvantaged populations which the society was serving. The new Board for the Law Centre was composed of one third representation from the Law School, one third from the local bar, and one third from the existing Community Action Legal Assistance Board. Dissatisfied with this arrangement, the latter component withdrew in 1979, claiming that the Law Centre Board should have greater representation from members of the disadvantaged population served.

In two other communities there has been the more basic problem of mere survival of local boards. In Williams Lake, the Legal Aid Society and the Williams Lake Human Rights and Civil Liberties Society (a CLO) had co-existed under the same roof prior to the amalgamation in 1979. In 1980, the Board of the CLO was faced with an office staff union certification vote under the Labour Relations Act, and found itself incapable of dealing with the situation. The Board resigned and the Legal Services Society was unable to encourage the formation of a new board. The combined staff subsequently became a Branch Office with staff working directly for the Legal Services Society.

In 1980, the Interior Public Legal Awareness Society and the Kamloops Legal Aid office merged to form the Kamloops Regional Law Centre Association. The organizational structure after the merger was complex. The staff lawyers remained direct employees of the LSS. The Awareness Society's Board continued and all other staff worked under contract with the Board. In 1982, all staff became employees of the LSS. In 1983, the Board resigned, stating that its function was redundant given the direct authority of the LSS over staff.

Despite these failures to maintain boards, it would be premature to predict the demise of CLO's under amalgamation. CLO's in an additional ten communities had functioning boards. The boards varied in their levels of activity: some were quite active, providing detailed policy direction. Until 1983, Nanaimo maintained both a Legal Services Society Branch Office and CLO on two floors of the same building, and they co-existed without overlap by splitting the areas of work that they performed.

In August, 1983, the LSS announced the consolidation of the Nanaimo Branch Office and the CLO. As in Kamloops in 1980, the CLO board in Nanaimo continued after the merger. This amalgamation was a response to reduced funding from the provincial government. Also in August, the LSS announced the closure of the Maple Ridge and Smithers CLO's. Restraint programming forced a reduction in the number of CLO's.

The Legal Services Society has undertaken a few expansions since the amalgamation in 1979. Experimental paralegal projects were created in multi-service centres with community boards in North Vancouver, Richmond and Langley. Although funding for the two former projects was assumed by the Law Foundation in April, 1983, these three projects indicate commitment by the LSS to a community orientation. In all three cases, the Society considered the alternative of creating Branch Offices, but opted to use paralegals working under community boards. A Native CLO was also opened in Burns Lake in 1982. While this office opened as restraint was becoming a reality, it had been planned for a long time and represented a response to what the LSS Board perceived to be an area with major unmet legal needs. There appears to be a general interest on the part of LSS in community programming.

In addition to some mergers of CLO's and Branch Offices, some CLO's have taken on Area Director functions for the legal aid plan in their areas. Many CLO's also provide duty counsel services. These functions were assumed gradually even before the 1979 amalgamation, but have become an integral part of many of the offices since that date. To the extent that CLO's have taken on these additional functions, there has been some shift away from traditional CLO activity (civil matters, public legal education and community development) and into traditional legal aid activity (family tariff and criminal matters). In this sense there has been a homogenization of services offered by LSS Branch Offices and the CLO's. In fact, it is best to consider that the LSS now has three basic types of offices: Branch Offices; CLO's, and CLO/Area Director (CLO/AD) offices with both Branch Office and CLO characteristics.

1.3.4.3 Centralizing Tendencies

These local amalgamations and the gradual assumption of new functions by CLO's can be seen as local manifestations of a centralizing tendency within the Society as a whole. Both represent attempts to rationalize the delivery of services at a local level in the apparent interest of the overall system.

Two other manifestations of this tendency at Head Office level are the creation of a uniform information and reporting system for all offices (which serves the planning needs of the overall Society as well as those of particular offices) and the present evaluation (which has the overall Society and the Department of Justice rather than particular offices or communities as "clients"). The uniform information system replaced old separate information systems used by the Legal Aid Society and the CLO's. These predecessor systems were detailed. In particular, the CLO system contained detailed activity and outcome information. The new information system represents an attempt to produce some information across all types of offices and encourages, at least at a general level, the treatment of all offices as part of one organizational system. The new information system, however, maintains many distinctions between Branch Offices and CLO's. The most important distinction perhaps is the fact that the CLO's forward information to the LSS without the client's name attached. Their independence and the arm's length relationship as it related to clients and confidentiality is maintained. Even with these distinctions a movement towards a common information system and an overall evaluation represent a tendency towards viewing the system from an overall persepective and an attempt to look at commonalities, rather than differences.

These centralizing tendencies are in part offset by the strong network of local offices, and the decentralized orientation of the CLO's. The CLO's retain considerable autonomy in that they can still set their service priorities, within contractual limits, independently of head office.

The Board of Directors has also indicated an openness to involvement of local offices in establishing the LSS policies. For example, in 1980 and 1981, the Board considered a series of policy questions on such matters as the role of the Board, the role of the Society in law reform, eligibility for legal aid, global funding of independent agencies, revision of the legal aid tariff, and public legal information and education policy. When tentative conclusions were reached, they were circulated to Branch Offices, funded agencies and other interested groups for comment before final determination of the policy was made.

Thus, on the one hand, since 1979 there has been a centralizing tendency within the LSS, primarily in the form of a rationalization of service delivery; on the other hand, decentralized institutions inherited from the Legal Services Commission, Board practice, and a strong office network still exist as counterbalancing orientations. The overall pattern in British Columbia is still more decentralized than centralized.

1.3.4.4 The Impact of Restraint

Changes in the Legal Services Society seem to be driven by underlying views about legal aid and community involvement and by the impact of funding restraint policies on all operations of the Society from mid-1982. The impact of restraint programming overwhelmed any gradual, evolutionary organizational changes that were occurring. The following account briefly describes the cumulative effect of restraint between mid-1982 and late 1983.

By late 1981 and early 1982, the world economy had clearly moved into a recession, and economic restraint policies were announced by both the federal and provincial governments. While federal restraint policies have had little direct effect on legal aid in British Columbia, the impact of the provincial restraint program was dramatic. As a result of provincial cutbacks both in the Attorney General's family court assistance program in April, 1982, and in funding to the LSS in September, 1982, the Legal Service Society was forced to adopt severe restraint measures of its own effective October 1, 1982. These included the introduction of a fixed financial eligibility standard for criminal and family tariff matters, a reduction in matters covered in the criminal and family tariff (all but eliminating representation in family court), and the introduction of a user fee to be collected by the private bar. In fact, when user fees were first introduced, the bar was "deemed" to have collected them and they were deducted from the lawyer's account regardless of whether the lawyer had received them.*

In addition, fees paid to the private bar under the tariff programs were reduced by 12½%, and the Society's Schools, Library Services and Public Legal Education programs were cut by 15%.

Further cutbacks, including a 5% reduction in the Legal Information Services and Native Programs budget, and elimination of coverage for summary conviction offences, were announced by the Society in April, 1983, to forestall projected budget deficits for the 1983-84 fiscal year. Some of these were withdrawn when the then Attorney-General promised additional funds. In April, 1983, the Provincial government granted a special warrant of $1.9 million to help reduce the fiscal 1982-83 deficit. The Law Foundation grant to the Society was also reduced in fiscal 1983-84. In fiscal 1982-83, the Law Foundation granted the Society $2.26 million initially and supplemented this with $500,000. In 1983-84, the Law Foundation grant was reduced to $2 million, an effective reduction of $760,000.

During the series of budget cuts staff complements in the LSS Branch Offices and in the CLO's were reduced. By April, 1983, staff layoffs totalled 34 positions.

In July, 1983, the newly elected provincial government brought down a new budget in which the Legal Services Society was restricted to the same amount budgeted for 1982-83: $13.4 million. That amount had already proven inadequate for the previous year. The LSS began 1982-83 with a $800,000 surplus, but dispite a special warrant of $1.9 million, ended the year with a deficit requiring an emergency grant of $800,000. The $800,000 was taken from the next fiscal year's budget so, effectively, the government provided $800,000 less in 1983/84 than it did in 1982/83.

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* In March, 1983, the "deeming" provision was dropped. The fee is still assessed, and the bar still collects it. The money is not deducted from the lawyer's account unless the client has actually paid.

At the same time, the Social Credit government announced that it would be abolishing the office of the Rentalsman on September 30, 1984; would abolish the Human Rights Branch and Commission and replace them with a five member Human Rights Council with no investigative staff; and would eliminate the Consumer and Corporate Affairs Ministry complaint and mediation services. These program cuts promised to place further demands on the CLO's and the LSS Branch Offices at a time when the Society was suffering an effective decrease in funds.

The actual money received by the LSS fell short of the Society's projected requirements and the Society's Board of Directors was required to make further cutbacks in fiscal 1983-84. These were announced in the summer of 1983. The first announcement was in July, 1983, when the Society stated it would no longer cover second or subsequent impaired driving offences. The second, on August 30th, was that the Society would no longer provide legal aid to applicants charged with summary conviction offences who had previously been convicted of the same or offences similar to the one for which they were seeking assistance.

Furthermore, the Society announced the closure of CLO's in Smithers and Maple Ridge, and Branch Offices in Cranbrook and Vernon (an intake office for the Branch Office in Kelowna). The Society also planned to terminate the legal education and information program in the Smithers Native Friendship Centre, and reduce staff in the Nanaimo Branch Office and CLO. It was proposed that the remaining staff in the Nanaimo operations would amalgamate. Finally, mid fiscal-year cutbacks of 5% were announced for the Legal Information Services and Native Programs (effectively 10% across the whole fiscal year), with a further effective cutback of 10% for 1984-85.

The combined impact of the 1982 and 1983 cutbacks on client eligibility and usage of services is explored later in this report. Here we shall comment briefly on the effects of the cutbacks in terms of the Society's mandate and its structure. In dealing with the issue of where to cut back its services, the Society's Board of Directors was constrained both by the federal-provincial agreement and the Legal Services Society Act. The agreement (see Section 1.1.2 of this report) states that legal aid shall be provided for summary conviction offences when there is a likelihood of the applicant's imprisonment or loss of the means of earning a livelihood. However, it also permits provincial authorities to refuse legal aid to persons charged with an offence, if that person has previously been convicted of the same or a related offence.

The statement of intended criminal coverage under the Legal Services Society Act (see Section 1.1.1 of this report) is essentially the same as that in the Agreement, but makes no provision for refusal of legal aid to applicants who have been convicted of similar or related offences. In essence, prior to October 1, 1982, the LSS had attempted to fill the broader mandate of the Legal Services Society Act. However, the effect of the 1982 and 1983 cutbacks was that criminal coverage ceased to be provided as required under the terms of the Act, although it was still meeting the coverage requirments of the federal-provincial agreement. Moreover, the reduced coverage may have been inconsistent with the federal-provincial agreement in that the LSS went to a fixed eligibility standard except where documented by memorandum, while the Agreement specified a flexible standard.

The British Columbia Court of Appeal held the restraint induced coverage rules in violation of the requirements of the Legal Services Society Act 1979 in the case of Mountain v. Legal Services Society, [1984] 2 W.W.R. 438 and affirmed a lower court decision ordering the LSS to provide services to a legal aid applicant who had been rejected under the rule on prior related convictions. The LSS subsequently reinstituted the broad legal aid coverage mandated by section 3.2 of the Act. Consequent additional costs accruing under the tariff have been covered by the provincial government by special warrant.

The Attorney General of British Columbia has announced an intention to bring in amendments to the Legal Services Society Act that would permit the LSS to reduce legal aid coverage in order to stay within its budget. In the meantime, broad coverage levels remain in force.

The family law tariff, which was not covered by a federal-provincial agreement, was reduced even more drastically than the criminal tariff by the changes in October, 1982. Coverage in divorce matters was eliminated except in instances where safety, maintenance or custody was at issue. Family court cutbacks were equally severe, resulting in coverage only to respondents in child apprehension cases. Combined with the elimination of services to family court applicants by the Attorney-General's Family Law Unit, these cutbacks make it appear doubtful that the Society was providing coverage to every qualifying applicant who "was or might be a party to a proceeding respecting a family dispute that affects his physical or mental safety or health or that of his children" as set out in the Legal Services Society Act. After Mountain, the LSS reintroduced some family law coverage.

The increased family coverage might well be eliminated if the provincial government were to amend the Legal Services Society Act in the light of the Mountain decision.

As a result of Mountain, financial eligibility standards were also raised to the 1983 poverty level. The relatively fixed standard was not changed.

The effect of restraint policies and the subsequent Court of Appeal decision in Mountain on tariff matters has been first to reduce the level of coverage in most instances to its lowest point since the inception of the federal-provincial agreement and then to raise the level back toward the pre-restraint level. The reductions in coverage forced by restraint have also re-opened the issue of whether legal aid is provided under a state responsibility to ensure justice, or is seen simply as a social need which may or may not be filled. Clearly, in significant areas of criminal and matrimonial coverage, legal aid was treated as a need to be addressed subject to available funds rather than as a right which the state has a responsibility to meet.

The Legal Service Society's second statutory mandate, that "education, advice and information about law be provided for the people of British Columbia", (Legal Services Society Act 1979, Section 3(1)(6)) is exceptionally broad and unspecific.

The legal information program has formed a significant component of LSS activity since 1979. Moreover, the Board of Directors clearly set the legal information program on a par with the legal aid plan in the strategy it adopted when forced to make cutbacks. The 1982 and 1983 cutbacks were distributed as evenly as possible across all services and components of the Legal Services Society: both the legal aid plan and the legal information program were cut, but both remained in place and operational.

The British Columbia Court of Appeal overruled the Board's interpretation of the mandate provided by the Legal Services Society Act 1979 in its decision in Mountain v. Legal Services Society, [1984] 2 W.W.R. 438. The Court of Appeal held that the specific requirements of section 3(2) of the Act override the more general objects of section 3(1). In short, the Society is obliged to provide legal services to qualifying applicants whose "...liberty, safety, health or livelihood are in real jeopardy,..." but once those obligations have been met "...the Society may allocate its resources as it thinks best."

A major consequence of the restraint programming forced on the Legal Services Society by budget restrictions was, at the end of 1983, the elevation of the legal aid plan to a position of ascendency over other activities mandated by the Legal Services Society Act. This policy position was externally imposed.

In addition to the question of the Society's compliance with requirements under its governing statute and the federal-provincial agreement is the issue of how restraint has affected the decision-making structure of the LSS. In the previous section we characterized certain centralizing tendencies in the Society since amalgamation, although it was noted that the Society also inherited markedly decentralized institutions from the Legal Services Commission. The most obvious effect of restraint was to shift the focus of decision making even more decisively to the Board of Directors, insofar as the latter had to implement radical cost-saving measures effecting every component of the organization on relatively short notice. There has been no pretense that these decisions were made with any significant, much less systematic, input from the local offices or services centres of the Society. Nor did the Board have much time to gather much information from local offices.

These changes were, in turn, reflections of the fact that the political climate in which the Board itself was making decisions had altered. Since September, 1982, the provincial government has had a dramatic influence on the course of the Society by restricting funding. The Board's role (and that of the LSS management in general) in essence became reactive, responding to funding limitations. In this respect, the centralizing tendency just noted shifted beyond the management and Board of the LSS to the provincial government itself.

This is not to suggest that the Board did not publicly and privately resist and even condemn the cutbacks. It has already been noted that the Board attempted to preserve the basic structure of the Society in the course of the cutbacks. The Board did not, for instance, try to limit the power of CLO's to set their own priorities. Nevertheless, the practical effect of restraint was to emphasize the power of the provincial government to cause major changes in the fabric and tenor of the entire organization of the LSS. During the period of restraint, decision-making became more centralized and service delivery more reactive. Under the dual limits of restrained funding and judicially imposed priorities, the LSS had only limited means to determine its own future.

It should be noted that the decreases in funding to the LSS for legal aid and the associated program cuts were taking place during a period when there was most likely an increase in persons eligible for legal aid. The decreases in provincial funds for legal aid were part of a more general cutback in government funding undertaken in response to a major economic recession. The economic recession, however, increased the pool of persons financially eligible for legal aid. More persons were unemployed; more persons were on social assistance; more persons were financially eligible for legal aid.

1.3.4.5 Summary: The LSS Since 1979

Amalgamation was instituted to overcome tension and duplication of services between the Legal Services Commission and the Legal Aid Society. The LSS inherited the structures of these former bodies relatively intact and unchanged. The amalgamation has involved several mergers of local offices and the loss of community boards in some instances. Nevertheless, the LSS appears committed to the community based services, community board and the associated paralegal/legal information counsellor concepts.

Although the LSS inherited decentralized institutions from the Legal Services Commission which it continues to support, there is some tendency within the organization towards increased centralization of policy-making. This process has been reinforced by the demands of restraint. Successive provincial funding cutbacks to the LSS have forced the Board of Directors itself into a reactive stance, but a stance which limits the discretion of offices to determine what they do. The future of the LSS is uncertain.

1.4 ORGANIZATION OF LEGAL SERVICES IN BRITISH COLUMBIA - 1982

The following is a relatively static 'snap-shot' view of the service delivery structure of the Legal Services Society as it existed in 1982 prior to introduction of major restraint measures. Where major restraint measures affected the organization of legal service delivery, changes are noted. The content of this section is primarily descriptive rather than analytic.

Direct and indirect services of the LSS included services provided through the Client Services Department, the Legal Information Services Department and the Native Programs Branch in 1982. Within each of these departments there were a variety of delivery structures and funding arrangments. The latter included direct funding of line staff, contractural funding, fee-for-service arrangements, partial funding and project funding. These diverse methods of funding resulted in differing levels of control by the LSS management, and thus related directly to the level of centralization or decentralization possible within the overall organization.

Both the direct and indirect service areas used a mixture of delivery structures adapted to different populations, geographic areas and/or types of legal matters. Taken together with the variety of funding methods just discussed, the overall structure of the LSS could be described as CLO/AD, complex and internally diverse.

1.4.1 Client Services Department (Direct Legal Services)

Direct client services are a primary function of the LSS, related to its statutory mandate to provide services ordinarily provided by lawyers to persons who would otherwise not be able to afford them. Direct client services include legal representation, summary advice and general information about the law. These services were organized under four programs and delivered through five office structures. Each is described below.

1.4.1.1 The Programs

1.4.1.1.1 Tariff Program

Under the tariff program, provincial funds were used to pay private counsel to represent eligible clients on a range criminal and family law matters. The federal government, in turn, shared the cost of delivering criminal legal aid by reimbursing the province for part of the funds expended. Federal funds went into the consolidated revenue of the provincial government. (See section 1.1.2). Applicants for legal services covered by the tariff were assessed for eligibility for services, primarily on a financial basis, and, if eligible, were referred to private counsel who represented them under a fee-for-service scheme with fees set out in a tariff developed and paid for by the LSS. The client had the right to select any lawyer in the community who was willing to act on his behalf under the tariff.

Sections 1.1.2 and 1.1.3 outline the federal-provincial agreement and the priorities of the LSS concerning the types of cases covered under the criminal tariff. In practice, the imposition of restraint measures in October, 1982, and August, 1983, seriously affected coverage of summary conviction matters. Prior to October, 1982, legal aid was provided for summary offences where there was a "possibility" of imprisonment. From then until August 31, 1983, coverage was available only where there was a "probability" of imprisonment. From August 31 until November 21, summary conviction coverage was all but eliminated. The LSS reinstituted coverage in summary conviction matters on November 21, 1983, in response to the British Columbia Court of Appeal decision in Mountain.

The impact of restraint on the family tariff was more severe. Prior to October, 1982, all divorces were covered. After October, they were covered only when there was an immediate need to seek relief for family safety, maintenance or custody. Assistance to respondents in Family Court, previously covered, was eliminated except where a protection order was being made against the respondent's child under the Family and Child Services Act. Occupancy or restraining orders were still covered when there was an immediate need to seek relief for the safety of one of the parents or a child. As with criminal tariff coverage, some family tariff coverage was reinstituted in response to the Mountain decision.

LSS also administered a special tariff program for the Attorney-General. This tariff was dubbed the "Polglase Tariff" after a British Columbia Court of Appeal decision in Polglase vs. Polglase, [1980] 6 WWR 737, that had ruled the Family Relations Act ultra vires. Under the Family Relations Act proceedings with respect to child custody, occupancy of the family home, non-entry orders and maintenance were heard in Family Court. The Attorney General provided representation for applicants in Family Court. LSS provided representation for respondents. When the Family Relations Act was ruled ultra vires, custody, occupancy and non-entry order hearings moved to Supreme Court. The Attorney General negotiated the "Polglase Tariff" so that the LSS could provide coverage for individuals whose cases were heard in Supreme Court.

In January, 1982, the Supreme Court of Canada ([1982] 3 WWR 1) decided custody matters were within the jurisdiction of Family Court. In April, 1982, the Attorney General discontinued coverage under the Polglase Tariff and, at the same time, reduced its own services to applicants in Family Court. In the following summer the LSS made complementary reductions in its coverage of respondents in Family Court.

There was no tariff for civil matters (apart from the family law matters just noted), but the private bar assumed some responsibility for civil legal aid on an unremunerated pro bono publico (for the public good) basis. This was seen as part of the bar's professional responsibility.

1.4.1.1.2 Staff Counsel Program

The LSS employed lawyers to staff the LSS Branch Offices on a full time basis. The staff counsel of the LSS offices provided summary advice, counselling and information about the law, administered the tariff program, and also provided legal representation. The LSS staff counsel provided legal representation for areas of law not covered under the tariff program as well as for tariffable matters. Legal aid cases in the areas of law not covered under the criminal or family tariffs often have special aspects which are seen only infrequently in the practices of members of the private bar. Where possible, staff counsel represented eligible clients for cases in the civil non-tariff areas of law including:

- Administrative tribunals of agencies such as Immigration, the Unemployment Insurance Commission, Human Resources, Pensions, or Workers' Compensation;
- Bankruptcy and debt problems;
- Contract law;
- Motor vehicle problems;
- Real estate;
- Landlord/tenant problems.

Staff counsel were also employed in some local service offices funded under contract. Because priorities for these offices were determined by local community boards, staff counsel were not as restricted in the types of cases undertaken as were their counterparts in the Branch Offices.

1.4.1.1.3 Legal Information Counsellor (LIC) Program

This program was a major vehicle for providing advice and general information on the law to individuals. LIC's are paralegals, that is, lay individuals who are not members of the bar and usually have not received any formal law school training. They provide information and advice to clients while under direct or indirect lawyer supervision. In some cases, their activities extend to representation of individuals in tribunals or lower courts. Other functions of LIC's include processing legal aid applications, undertaking public legal education and, less frequently, community development activities. Section 9 of the Legal Services Society Act defines what LIC's can do.

The primary orientation of LIC's in 1982 tended to involve civil (including family) matters. Typical problems handled by LIC's were matrimonial/family, landlord and tenant, consumer matters, small claims, and debt.

1.4.1.1.4 Duty Counsel Program

The LSS Branch Offices, and sometimes CLO's, provided duty counsel services in adult criminal courts throughout the province during 1982. Duty counsel was also provided in juvenile court in Vancouver one day each week. Duty counsel are either members of the private bar retained on a per diem rate or LSS staff. Duty counsel are available to unrepresented defendants, primarily for bail hearings of persons in custody, and as time permits, for first appearances by people not in custody. They also accept applications for legal aid in some courts.

1.4.1.2 The Delivery Mechanisms

The four programs just described were delivered through various offices or mechanisms funded in a variety of ways. The principal ones were LSS Branch Offices, Community Law Offices (CLO's), Area Directors, Native CLO's, CLO/Area Director offices, and a number of circuits.

In addition, the LSS funded or paid for services from a number of other agencies which provided direct client services, notably Native Friendship Centres, the Elizabeth Fry Society and the Salvation Army. All these mechanisms are described below. A more detailed account of the genesis of Branch Offices and CLO's is provided in Sections 1.1.3 and 1.1.2 respectively.

1.4.1.2.1 Branch Offices

During 1981-82, the LSS operated Branch Offices in the locations shown in Table 1-1. The Branch Offices administer the tariff program, employ staff counsel, administer duty counsel services and provide legal services not covered by the tariff. In relation to tariff matters, Branch Offices accept applications for legal aid, assess eligibility and provide client services directly or by referral to private counsel. In relation to non-tariff matters, staff of the LSS Branch Offices provide summary advice, public legal education, information about the law and representation in civil non-tariff matters.

Most typically, the offices employ two staff lawyers and two secretary/legal assistants. However, as shown in Table 1-1, the size of staff does vary. These individuals are direct employees or "line staff" of the LSS, and are paid directly by the Society. (See Table 1-1).

1.4.1.2.2 Community Law Offices (CLO's)

The LSS funded a number of independent societies which operated community law offices in order to deliver legal services. Although CLO is the "in-house" term used for these offices, they are known by quite different names in each community, as shown in Table 1-2.

The CLO's are managed by local Boards of Directors. These Boards contract annually with the LSS Client Services Department to provide legal services. Funding is therefore indirect insofar as it is administered by each local board. Staff are not LSS "line staff" as is the case in Branch Offices, since they are responsible to their local Board rather than the LSS. The Boards, and not the LSS, are responsible for setting priorities among local service needs. Priorities, however, must be set within the general priority structure set out in sections 3(1) and 3(2) of the Legal Services Society Act.

CLO's give summary advice, counselling and information about the law and do more extensive casework, primarily in civil cases.

Table 1-2 presents the number and type of staff at the Community Law Offices during 1981-82. All CLO's had legal information counsellors and clerical staff. None had staff lawyers. CLO's use consulting lawyers. The consulting lawyer supervises the work of the legal information counsellors and provides back-up advice to the legal information counsellors. (See Table 1-2)

1.4.1.2.3 Native CLO's (NCLO's)

Native CLO's (NCLO's) fulfill essentially the same functions and are funded in ways similar to CLO's. Primarily, they serve native people, but are open to anyone. Several Native CLO's report having a large non-native clientele while several CLO's and Branch Offices report having large proportions of native clients. Most Native CLO's had lawyers on staff in 1981-82. Office locations, names and staffing patterns are shown in Table 1-3.

The CLO's and NCLO's are also contractually responsible for community development and public legal education in their communities. The interpretation of community development, and the degree of activity in this area varies from office to office, but in no case does it involve much commitment of time or replace direct service as a priority. Community development activities are usually undertaken by the legal information counsellors (LIC's). Examples of

TABLE 1-1

Legal Services Society of British Columbia
Branch Office Staffing[1]
81/82 Fiscal Year

OFFICE LOCATION	STAFF COUNSEL	SUPPORT STAFF	PARALEGAL
Burnaby[2]	6	4	1
Campbell River	2	2	-
Chilliwack	2	2	-
Cranbrook[3]	2	2	-
Dawson Creek	1	1	-
Fort St. John	1	1	-
Kelowna	2	2	-
Nanaimo[4]	2	2	-
Nelson	2	2	-
Prince George	2	2.5	-
Prince Rupert	2	2	-
Surrey	2	2	-
Vancouver	5	10	1
Vernon (intake office)[5]	-	0.8	-
Williams Lake	2	2	1

[1] - Staffing figures based on actual staffing levels, not budgetted lines.

[2] - Includes public defender office.

[3] - Termination of office announced August 31, 1983.

[4] - Amalgamated with CLO in Nanaimo; staff reductions announced August 31, 1983.

[5] - Vernon was an intake office for the Branch Office in Kelowna. It was terminated in August, 1983.

TABLE 1-2
Legal Services Society of British Columbia
Community Law Office Staffing[1]
81/82 Fiscal Year

NAME	LOCATION	STAFF COUNSEL	SUPPORT STAFF	LEGAL INFORMATION COUNSELLORS (PARA-LEGALS)
Legal Information Service[2]	Maple Ridge	-	1	2
Association for Intervention and Development Community Law Centre[3]	Nanaimo	-	1	2
New Westminster Community Legal Services Society	New Westminster	-	2	3
South Okanogan Civil Liberties Society	Penticton	-	1	3

[1] - Staffing figures based on actual staffing levels, not budgetted lines. Counts are for the period before the first staff reductions during restraint.

[2] - Termination announced August, 1983.

[3] - Amalgamation with Branch Office in Nanaimo and staff reduction announced August 31, 1983.

TABLE 1-3

LEGAL SERVICES SOCIETY OF BRITISH COLUMBIA
NATIVE CLO's STAFFING[1]
81/82 FISCAL YEAR

NAME	LOCATION	STAFF COUNSEL	SUPPORT STAFF	PARA-LEGALS
Haida Counselling and Legal Assistance Society[2]	Skidegate/ Massett (Queen Charlotte Islands)	1	2	2
Nicola Valley Counselling Centre	Merritt	-	2	2
Upper Skeena Counselling and Legal Assistance Society	Hazelton	1	2	2
Burns Lake Community Law Centre Society[3]	Burns Lake	1	1	1

[1] - Staffing figures based on actual staffing levels, not budgetted lines.

[2] - There are separate offices in Massett and Skidegate. They function as independent offices for most purposes.

[3] - Figures from 82/83 Fiscal Year. This office opened in November, 1982. Full staffing was achieved in January, 1983.

community development activities by CLO's during 1982 and 1983 include assisting welfare recipients, tenants and women to form community organizations and lobbies. Public legal education, sometimes with assistance from the PLE grant program at the LSS Head Office, is usually a function both of LIC's and staff lawyers.

1.4.1.2.4 CLO/Area Director Offices (CLO/AD's)

Several offices had characteristics similar to those found in both the CLO's and the Branch Offices, but were sufficiently different from either so that they are treated as a separate office type in this report. These offices have usually been formed by the merger of a Branch Office and a CLO or by a CLO taking on responsibilities of a Branch Office. Some maintain more of a CLO identity than others. Table 1-4 contains a list of the CLO/AD's for 1981/82. They all functioned as Branch Offices for the purpose of administering the criminal and family tariffs and functioned as CLO's when providing advice and information. Most of the CLO/AD's had staff counsel. These offices replicate, in many respects, the accommodations worked out after the merger of the Legal Aid Society and the Legal Services Commission in 1979. The 1981/82 staffing of these offices is listed in Table 1-4.

1.4.1.2.5 Area Directors

In areas in which there are no Branch Offices, CLO/AD's or Community Law Offices, the Legal Services Society sometimes uses private lawyers to administer the delivery of legal services provided through the tariff program. This involves determining eligibility and referring the approved clients to private counsel who represent the clients under the fee for service tariff. Area Directors bill the LSS for the administrative services they perform on a fee-per-application basis. Locations of Area Directors in 1982-83 were as follows:

- Chetwynd
- Delta
- Duncan/Ladysmith
- Ft. Nelson[1]
- Gibsons
- Golden
- Kaslo
- Langley[2]
- Lillooet
- Mackenzie[1]
- Nakusp
- North Vancouver
- Penticton
- Revelstoke
- Richmond
- Salmon Arm
- Squamish
- Terrace
- Trail
- Whitehorse

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[1] Terminated fiscal 82/83

[2] Through Langley Paralegal Project

TABLE 1-4

Legal Services Society of British Columbia
CLO/Area Director Office Staffing[1]
81/82 Fiscal Year

NAME	LOCATION	STAFF COUNSEL	SUPPORT STAFF	PARA-LEGALS
Abbotsford Community Services Society	Abbotsford	1	2.5	2
Kamloops Regional Law Centre Association	Kamloops	2	3	1
Powell River Civil Liberties Society	Powell River	-	2.17	2.8
Quesnel Human Rights Civil Liberties Association	Quesnel	1	1.5	2
Smithers Law Centre[2]	Smithers	1	1.5	2.5
The Law Centre Association of Victoria[3]	Victoria	4	5	4

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[1] - Staffing figures based on actual staffing levels, not budgetted lines. Numbers therefore reflect the proportion of a year an individual was employed.

[2] - Termination announced August, 1983

[3] - Law students from University of Victoria are also used to provide advice.

1.4.1.2.6 Native Friendship Centres

Friendship Centres are umbrella agencies which provide cultural, recreational and educational programs to native people. There are eighteen friendship centres in British Columbia. The Legal Services Society maintained contracts with four centres to provide legal information and education programs during 1982. Their locations were in Fort St. John, Mission, Smithers and Port Alberni. Termination of the Smithers contract was announced August 31, 1983.

1.4.1.2.7 The Northern Circuit

In northern communities such as Fort Nelson, Mackenzie, Stewart, Atlin, Lower Post, and Cassiar there are no permanently sitting court services. Every three or four weeks a judge, prosecutor, court clerk and other court officials are flown to such centres for a court sitting. The LSS either uses a staff lawyer or contracts with a private lawyer on a per diem basis to make the circuit at the same time and provide legal assistance and representation to eligible individuals. The Society also maintains a circuit to Bella Bella and Bella Coola on the North West Coast.

1.4.1.2.8 Local Circuits

The fact that Branch Offices or CLO's are located in particular towns has not prevented staff from reaching out into adjacent communities to offer services. Such outreach activities, which we call "local circuits" represent - like the larger scale Northern Circuit - attempts to widen the effective coverage of local services.

For example, staff in Nanaimo provide a weekly clinic in Port Alberni, monthly service to Uculet and relatively routine service in Qualicum. The office in Campbell River provides a clinic in Courtney and the staff lawyer routinely travels to Port Hardy, Alert Bay and Tahsis. Kelowna maintained, until the August, 1983, cuts, a satellite office in Vernon. Similarly, a lawyer in the Cranbrook office went to court in Golden and Creston; a lawyer in the Chilliwack office routinely goes to court in Hope; the lawyer in the Dawson Creek office goes to Chetwynd one day a week and travels the Northern Circuit; the lawyer in the Ft. St. John office travels to court at Hudson's Hope one or two days a month; the Williams Lake office provides duty counsel at Anahim Lake (two days every other month) and Alexis Creek (two days a month); the Burns Lake NCLO operates a satellite office in Southbank two days a month and the lawyer on staff goes to court in Houston and Topley Landing as duty counsel. The Victoria office sent a paralegal to court in Sydney two days a week until recently, when the service was dropped as a restraint measure. Smithers sent a staff paralegal to court at Houston two days a month; and a Kamloops office staff lawyer travels to court at Merritt once a month and Clearwater twice a month.

These local circuits are informal and in some instances overlapping. They represent the local initiative that is one of the benefits of a decentralized service delivery system, local staff responding to local needs.

1.4.1.2.9 Other Agencies

The LSS funds, in part, a variety of other programs offering direct client services. These include:

- Elizabeth Fry Society - which provides courtworker services through staff or volunteers. They explain court procedures, refer clients to appropriate social agencies, and accept legal aid applications. In 1982-83, funds were provided for Elizabeth Fry Society courtworkers in Kelowna and Vancouver.

- Salvation Army - the LSS pays the Salvation Army on a per application basis for taking legal aid applications in Vancouver, New Westminster, North Vancouver and Victoria.

- Vancouver Legal Assistance Society - the LSS contributes one third of VCLAS funds (see historical details concerning VCLAS in Section 1.3.2).

- British Columbia Civil Liberties Society - the LSS funded the executive director of BCCLA. The executive director provides information and coordinates an advocacy referral service for those persons whose problems raise civil liberties issues. Funding for the BCCL was eliminated in the October, 1982, budget cuts.

1.4.1.2.10 Special Projects

Both before and since amalgamation the LSS and its predecessor organizations have initiated a variety of ongoing special and demonstration projects testing different delivery arrangements and settings. Some of these have been incorporated into the general structure of the LSS. Others have been taken over by alternative funding bodies. Others have simply been terminated.

Some of these projects are:

The Burnaby Criminal Defence Project - In October, 1978, this three year project was established by the Legal Aid Society to assess the feasibility and effectiveness of a criminal public defender program. The evaluation is now complete and the project has been incorporated into the LSS Branch Office structure although the model has not been applied elsewhere in British Columbia.

Prison Services Project - This project provides special services to prisoners in institutions in the lower Mainland and Fraser Valley from a base in Abbotsford.

Bella Coola Project - Starting in the 1980-81 fiscal year, the Society contracted for half of the time of a lawyer in private practice to do tariff casework, non-tariff casework, public legal education and community development. The arrangement was terminated in 1982.

Langley Paralegal Project; North Shore Information and Referral Society; Richmond Community Legal Information Office - These three projects were initiated in 1979 as paralegal-run programs in multi-service centres. The former is funded by the a Law Foundation grant which is administered by LSS and serves the additional function of Area Director. In April, 1983, the Law Foundation also assumed funding of the latter two projects.

Do Your Own Divorce Program - This program serves persons in the Vancouver area who are eligible for legal aid and want a divorce on the grounds of living separate and apart from their spouse for three years. Students from the Law Student Legal Advice Clinics help the client prepare and serve the necessary documents and set the matter down for trial. The LSS appoints a lawyer to represent the client at trial.

1.4.2 Legal Information Services Department (Indirect Legal Services)

The Legal Information Services Department (LIS) coordinates activities related to the second mandate of the LSS, i.e., to provide education and information about the law. The LIS component of the LSS includes a public legal education program, a schools program and a library services program.

The overall goals and objectives of the LIS Department and the three programs are stated in Section 1.1.3. As explained in that section, the focus of this evaluation is on Client Services. Therefore only a summary of each service is provided here.

Despite the only slight attention devoted to these services in this report, and notwithstanding cumulative cutbacks totalling 25-30% for the Legal Information Services Department between October, 1982, and September, 1983, these programs can be seen as potential models for other public legal information services in Canada. In addition, they serve to emphasize the diversity of delivery structures and funding mechanisms that we have already encountered in client services. While these programs were not evaluated, a brief description of them is included in the following sections to help paint a more complete picture of the Legal Services Society.

1.4.2.1 Public Legal Education

The public legal education program provides educational material about the law, and, through funding and back-up support, encourages involvement of community groups and institutions in public legal education. In 1981-82, 22 organizations were funded in this way. The following are five examples taken from the 26 groups funded in 1982-83:

- Federated Anti-Poverty Groups of British Columbia - To provide an information and skills workshop on welfare and landlord/tenant matters to 62 delegates of poverty groups throughout the province.

- Westminster Community Legal Services - To write six handouts in a series called "Life after Debt" on such topics as foreclosures and garnishees.

- Elizabeth Fry of Kelowna - To conduct self-help orientation courses for people appearing in family court unrepresented.

- SUCCESS (a service agency catering to the Asian population in downtown Vancouver) - Through shared funding with the Human Rights Commission, to provide an outreach program in which members of the Asian community are aided by interpreters and agency personnel in initiating complaints with the Ministry of Human Resources, Human Rights Branch and Rentalsman.

- Prison Services Project - To develop materials for prisoners who are appealing their own sentences, transfers, warden's court decisions and sentence calculations.

The main effect of restraint on the PLE program, apart from the financial cutbacks themselves, has been a decision to tailor PLE funding grants more closely to the most disadvantaged populations. Prior to 1982-83, approximately 30% of PLE funds went to groups serving the general public. In 1982-83, the comparable allocation was estimated at 10-15%. Thus, the target of PLE funding - even though its statutory mandate does not specify particular populations - now closely parallels that of Client Services.

1.4.2.2 Schools Program

The Schools Program develops curriculum materials and audio-visual aids on legal subjects for primary and secondary schools. It also sponsors and coordinates workshops and other training forums on law-related matters for teachers. The program provides liaison with numerous legal and educational organizations, and, increasingly, with the provincial Ministry of Education.

As of March 31, 1983, the Schools Program had 38 audio-visual and print titles available for school use and had distributed 11,500 copies of its publications (including 5 issues of the Schools Newsletter) to schools during the previous 12 months. Sample titles developed or revised during 1981-83 include: A Child's Place (covering rights and responsibilities of children and parents); Pesticides: The Legal Issues; Racial Discrimination and Immigration in British Columbia; The Court Charts (graphic outlines in poster form of court levels and processes); Somewhere Between (concerning the loss of native status for native women who marry non-native men); and a guide on labour law.

1.4.2.3 Library Services Program

The Library Services Program provides law-related materials, together with training and consultation on their use, to public and community college libraries, CLO's and Branch Offices. The program also operates the Legal Resource Centre which offers reference materials and runs a telephone information service for the general public. The telephone information service handled 15,000 calls in 1982-83.

Examples of topics covered in training workshops in the period 1981-83 include legal research and referral and library management skills. Substantive law sessions included: youth and the law; law and the disabled; the court system; motor vehicle law; the Charter of Rights; the Freedom of Information bill; ICBC; and, the Unemployment Insurance Act. The workshops served LSS staff, librarians and a variety of groups and organizations. During the same period, workshops were held in such centres as Prince George, Port Hardy, Port McNeill, Nelson, Courtney, Vancouver, and the Fraser Valley.

Sample publications produced by the program include: Taking the Law into your own Hands: A Guide to Legal Research; A Legal Collection for Non-Legal Librarians in British Columbia; and, Legal Resource Centre News.

1.4.3 Native Programs Branch

Until 1981, the LSS administered federal and provincial funds for the Native Courtworkers and Counselling Association (NCCA). The main function of NCCA's 42 courtworkers around the province was to ensure that native people obtained advice and assistance before and during court appearances. In 1981, the Attorney General decided - at the request of NCCA - to fund the organization directly.

The primary administrative focus of the Native Programs Branch has been the Native CLO's and the legal information programs of four Native Friendship Centres. These offices have been described above. In addition, the Native Programs Branch has undertaken liaison work and funding of workshops with organizations such as the Union of British Columbia Indian Chiefs, the British Columbia Indian Homemakers Association, and the British Columbia Native Women's Association.

1.5 SUMMARY

The overall structure of the LSS is most notable for its diversity. Historically it is a hybrid, an amalgamation of two predecessor organizations with quite different structures. This is reflected in its combination of direct and indirect legal services, its varied methods of funding services, and the different substantive emphases found in its various direct client services.

The combination of direct and indirect services also relates clearly to the two statutory mandates of the LSS discussed in section 1.1. Direct legal services include tariff, staff counsel, legal information counsellor and duty counsel programs. These programs are delivered in various combinations through Branch Offices, CLO/AD Offices, Community Law Offices, Area Directors, Native Community Law Offices, the Northern Circuit, local circuits, and through partial funding of other agencies. Indirect legal services include public legal education, schools and library service programs. These programs, while providing a variety of services to agencies, community groups and institutions, are also involved in the production of legal information print and audio-visual materials. A Native Programs Branch provides specific support to Native Community Law Offices and addresses other native legal concerns.

As described at the beginning of this chapter, the delivery of legal aid in British Columbia is viewed from three perspectives: the degree of centralization/decentralization; the strength of proactivity/reactivity of the system; and the status of legal aid as a need or a right.

Organizationally, LSS is a fairly decentralized service delivery organization which has the potential for providing both proactive and reactive services. Legal aid services in the criminal and family law area are currently a statutory right.

The Legal Services Society administers a complex organization whose purpose is to deliver legal aid. As a result of its history, the Legal Services Society has a variety of program with many different management strutures and funding mechanisms. The LSS directly administers and funds Branch Offices and indirectly administers CLO's and NCLO's through grants. Special grants are used to supplement some programs. Some service delivery is controlled by Head Office, as with the Northern Circuits. Other service delivery is controlled by local offices. Some policy is set by the LSS board, yet some local communities have community boards whose function is to set, within limits, local policy. Legal aid in British Columbia is, therefore, organized in part centrally and in part locally. Direct client services are primarily decentralized. As it stands now, the Board of the LSS has the mandate to set policy for the whole LSS delivery system, but has not exerted a highly centralized view of what should be done. Most centralized policy making in the LSS has been a result of necessary restraint decisions and a rationalization of the service delivery pattern. The overall pattern of legal aid in British Columbia is still more decentralized than centralized.

Within the general decentralized structure, individual offices can be either reactive or proactive. Subsequent sections will describe the balance between reactive and proactive services, but the potential for both types of service exist. Head Office, through its PLE, Library Information Services, and Schools Program, clearly adopts a proactive approach.

With the impact of restraint, the broad base delivery of legal aid services within the province has been reduced. Until restraint measures were introduced, the legal aid plan provided representational services across a range of criminal and family law matters. The society was basically innovative at a central management level. It inherited complex organization structures from its predecessor organizations, and built on this diversity. Before major cutbacks, the LSS was an organization which, from the diversity of its programming, appeared to be actively attempting to fulfill its mandate.

Since October, 1982, when the first restraint programming was introduced, the Society has had to cut back on services and reorient itself towards representational services in serious matters.

The future of legal aid in British Columbia is uncertain. It is unlikely that the province will return to a system based on charity, but at this time it is unclear what minimum service levels will be maintained. In the wake of the Mountain decision, provincial enabling legislation would have to be rewritten to permit the LSS to drop to the August, 1983, levels of service in order to meet budget restrictions. There is every indication this will happen. The mood of the provincial government appears to favour reduced services. When the economy improves the Legal Service Society's budget may increase. If this happens, then the Society will have to make fundamental choices about what services to increase or re-introduce. If the rebuilding occurs, the Society should look carefully at its operation before restraint to see if it represents the type of services it wants to provide. This evaluation should be read in that light: What were the strengths and weaknesses of the LSS before restraint? What direction should be followed when and if budgets increase?

2.0 SERVICE DELIVERY ANALYSIS

The Legal Services Society of British Columbia is a complex organization delivering a variety of services. The previous sections of this chapter described the services generally and described the methods and organizational structures used to deliver these services. This part of the chapter provides more detailed factual descriptions of both current and past service delivery patterns. This part of the chapter has five sections:

- a description of direct client service patterns from 1977 through 1982;
- a description of direct client service patterns for Branch Offices, CLO's, Area Directors, and CLO/AD Offices;
- a description of staffing levels from 1977 through 1982;
- a description of indirect client services for Branch Offices, CLO's, Area Directors and in CLO/AD Offices;
- a description of the impact of restraint on service volumes.

This part of the chapter is descriptive. The actual empirical patterns of service are described. Possible explanations for the patterns are advanced and specific problems in service delivery are identified in later chapters. This part of the chapter provides the "backcloth" for analyses in later chapters.

2.1 SERVICE PATTERNS 1977 THROUGH 1982

The pattern of direct client service delivery is an important place to begin the description of legal aid in British Columbia. The Legal Services Society is an amalgamation of two predecessor organizations which had quite different mandates: one, the administration of the legal aid plan; the other, the broader delivery of legal aid to the people of the province. The predecessor organizations had computerized information systems on which they maintained records of client contacts. During the first years after amalgamation, the LSS continued to use the predecessor information systems to gather data on service delivery operations. More recently, the LSS implemented an integrated information system. Historical patterns of service delivery were generated using both the information systems available through the predecessor systems and the information made available by the new system during the short period it operated concurrent with the term of the evaluation.

The use of multiple information systems to develop descriptions of service delivery patterns produces some analytic difficulties which should be mentioned. The two original information systems were not compatible in the sense that their definitions of the types of services provided were different. In order to avoid confusion, counts of services generated by the two systems, except for overall client contacts, were kept separate. The separation, however, produces a false separation of functions. In both predecessor organizations, the Branch Offices of the Legal Aid Society and the Community Law Offices of the Legal Services Commission, some similar functions were undertaken. Summary advice was provided in CLO's and in Branch Offices. In CLO's with staff lawyers, some representational services were provided. When the organizations merged, the reporting systems did not allow an identification of overlapping functions. Historical counts of services cannot be used to measure the quantity of overlapping functions. With the recently implemented integrated information system, the LSS should be able to measure the overlap of function. The new integrated information system was in operation for only a short period during the evaluation. It proved impossible to measure the overlap of activities.

A note about data integrity should be made. The Client Information System used by the Community Law Offices was well maintained and produces internally consistent information. However, many services provided through CLO's are short services. It is possible that staff at CLO's, under the old information system, may have undercounted actual services delivered. The data from the old Branch Office system is more likely to reflect actual contacts since people coming to the offices were usually applying for services under the legal aid plan and consequently were formally reviewed. Unfortunately, the Branch Office system lacks a high level of internal reliability. The historical service delivery patterns derived from these information systems should, consequently, be interpreted as if they were estimates in which there may be error, rather than as absolute enumerations.

Finally, CLO/AD offices, with their dual characteristics, reported under both information systems. The breakdown of services in these offices is therefore finer. Native CLO's, because of their initially low volumes, are included in counts with other CLO's in most of the service volume analyses.

With these qualifications in mind, services provided through the Legal Services Society were divided into five categories:

- Representational Services
  Those services delivered by a lawyer under either the criminal or family tariff program, under the civil non-tariff program, or services delivered by staff lawyers acting as counsel for a legal aid client. Representational services are provided, either directly or by referral, through Branch Offices, CLO/Area Director Offices, or by Area Directors. Representational service counts were generated from the Legal Aid Society Information System.

- Summary Advice Services
  Case specific advice provided in Branch Offices, CLO/Area Director Offices, and by Area Directors that does not include actual representation. Individuals may come to the office requesting summary advice or may receive summary advice when they apply and are rejected for representational services. For enumeration purposes, it has been assumed that all individuals applying for representational services receive, at a minimum, some form of summary advice. The summary advice counts, as do the representational service counts, come from the Legal Aid Society Information System.

- Advocacy/Representational Services
  Case specific services provided by staff of CLO's, Native CLO's or CLO/Area Director Offices that fall short of direct representation but which involve substantial investment of time by staff such as writing letters, filling out forms, or preparing the client for court. Advocacy/representation includes appearance at tribunals, assistance in preparing a case or extensive contacts made on the client's behalf. Advocacy/representation counts come from the Legal Services Commission Client Information System.

CLO/AD Offices reported under both the Legal Aid Information System and the Client Information System used by CLO's. CLO's and Native CLO's reported only under the Client Information System. Services provided by lawyers on staff at Native CLO's are counted as advocacy/representational services.

- Information Services
  General information about the law provided by staff of CLO's, Native CLO's or CLO/AD Offices. (Information services may overlap with summary advice services, but for the purposes of this evaluation were kept separate.) Information services are those short services available in CLO's; summary advice is short, case specific service available in Branch Offices, in CLO/AD Offices, or from Area Directors.

- Total Contacts
  The count of all contacts with offices, that is the sum of representational, summary advice, advocacy/representation, and informational services.

Table 1-5 presents the service volumes for the period 1977 to 1982, the period for which computerized information was available. Graph 1-1 presents service volumes pictorially. Data about representational services and summary advice services, the services provided through Branch Offices, Area Directors and CLO/AD Offices, were available for 1977 through 1982. Data about representational advocacy and information services, the services delivered through Community Law Offices and CLO/AD Offices, were available in usable form starting in 1979. Given this later reporting date for CLO's and CLO/AD's, a full picture of service patterns was only available for the period 1979 through 1982.

Since 1979, the total contacts across all offices increased 20% from 65,153 to 78,498. Using the latest census populations figures, the contacts in 1982 represent about three contacts for every 100 persons in British Columbia. Looking at representational services, for which figures were available from 1977 through 1982, volumes increased about 49%. During those six years there was a major increase in the volume of legal aid services delivered in British Columbia.

While the legal aid system generally grew during the last part of the 1970's and the beginning of 1980's, not all parts of the system grew equally. In fact, some parts of the system did not grow at all. The increase in service volumes was produced primarily by an increase in tariff services provided by lawyers. From 1977 through 1982, representational services in the criminal problem area increased 45% from 19,037 to 27,670. During the same period representational services in the family law area increased 60% from 6,791 to 10,872. If 1979 is used as the base year for comparison purposes, both criminal and family tariff services increased about 36% by 1982.

2.1.1 Representational Services

During the period 1977-1982, criminal representational services dominated the mix of representational services provided. In 1977, 70% of all representational services involved criminal matters while 25% involved family matters. Only 5% involved civil non-family matters. By 1980, the mix had become 63% criminal; 33% family; and 4% civil non-family. In 1982, criminal cases had risen again to 68% of cases involving representation and family law cases had dropped back to 27%. During the period for which data were available, there were about two criminal tariff cases for every family tariff case. The volume of reported representational services in the civil area was low during this period, 1300 to 2000 cases annually, and never accounted for a significant proportion of representational services.

2.1.2 Summary Advice Services

Summary advice services increased in a fashion similar to representational services. From 1977 through 1982, volumes increased about 40% from 14,464 contacts in 1977 to 20,275 in 1982. Summary advice services are the complement of representational services. British Columbians may seek advice about specific legal problems at Branch Offices, at CLO/AD Offices or from Area Directors. Legal Aid applicants may receive advice about their legal problems even when their applications for representational services are rejected. As might be expected, then, the number of people receiving summary advice increased at the same time as the number of people receiving representational services increased. The mix of problem areas dealt with by way of summary advice, however, differed from the mix of problems given representational service. About one-third of the summary advice dealt with criminal law and about one-third of the summary advice fell into the family law area. The

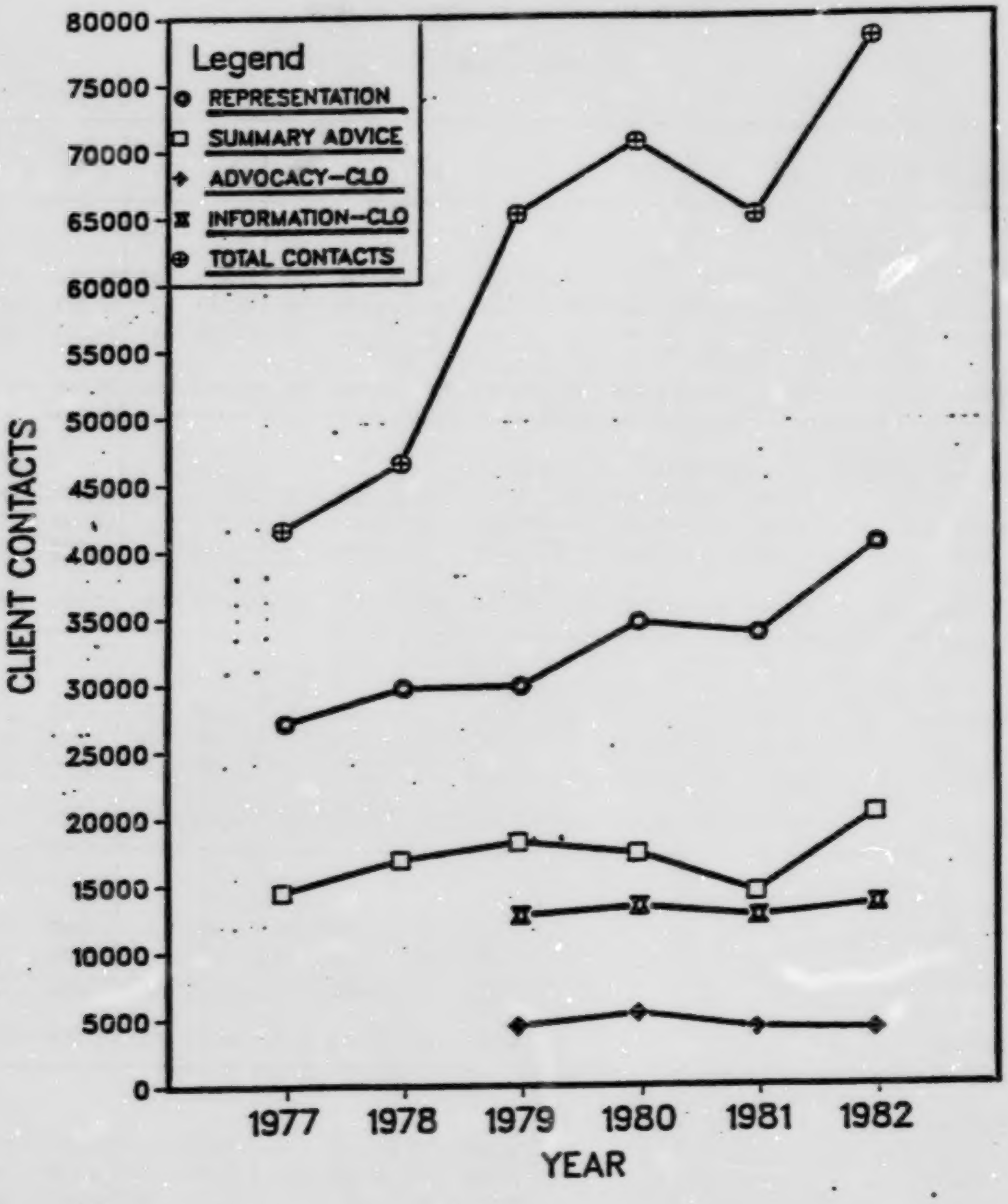
TABLE 1-5

PROVINCIAL PATTERN OF SERVICE DELIVERY
FOR
1977 - 1982

LEVEL OF SERVICE	1977	%	1978	%	1979	%	1980	%	1981	%	1982	%
CLIENT CONTACTS												
Criminal	24,775	60	26,717	57	27,639	43	30,126	43	29,068	45	36,252	46
Family	11,499	28	12,769	27	17,045	26	19,773	28	18,283	28	20,013	26
Civil	5,333	12	7,094	15	20,469	31	20,686	29	17,716	27	22,233	28
Total	41,587	100	46,580	100	65,153	100	70,585	100	65,047	100	78,498	100
REPRESENTATION												
Criminal	19,037	70	20,989	71	20,359	68	21,648	63	21,374	63	27,670	68
Family	6,791	25	7,228	24	7,996	27	11,445	33	11,010	33	10,872	27
Civil	1,295	5	1,490	5	1,473	5	1,483	4	1,353	4	1,950	5
Subtotal	27,123	100	29,707	100	29,828	100	34,576	100	33,737	100	40,492	100
SUMMARY ADVICE												
Criminal	5,718	39	5,728	34	5,674	31	6,096	35	5,305	37	6,587	32
Family	4,708	33	5,541	33	5,981	33	5,231	30	4,248	29	5,903	29
Civil	4,038	28	5,604	33	6,516	36	5,984	35	4,869	34	7,785	39
Subtotal	14,464	100	16,873	100	18,171	100	17,311	100	14,422	100	20,275	100
ADVOCACY-CLO												
Criminal					446	10	728	14	613	14	458	11
Family					672	15	795	15	709	17	689	16
Civil					3,344	75	3,857	71	2,953	69	3,061	73
Subtotal					4,462	100	5,380	100	4,275	100	4,208	100
INFORMATION-CLO												
Criminal					1,160	9	1,654	12	1,776	14	1,537	11
Family					2,396	19	2,302	17	2,296	18	2,549	19
Civil					9,136	72	9,362	71	8,541	68	9,437	70
Subtotal					12,692	100	13,318	100	12,613	100	13,523	100

NOTE: Data for Community Law Offices were unavailable for the years 1977 and 1978. These missing data are reflected in the low number of total client contacts for these two years on the computerized information system.

GRAPH #1
SERVICE PATTERN FOR PROVINCE



remaining third ranged across the broad expanse of civil law. While civil non-family legal problems accounted for only a small proportion of the total volume of representational services, civil non-family legal problems formed a substantial proportion of the volume of summary advice services delivered.

2.1.3 Advocacy/Representation and Informational Services

While representational services and summary advice services were increasing, advocacy/representation and informational services provided in CLO's and CLO/AD Offices remained fairly constant. From 1979 through 1982 advocacy/representational services stayed effectively constant (4,462 contacts in 1979 and 4,208 contacts in 1982). Similarly, informational services only increased from 12,692 contacts to 13,523 contacts. The sum of advocacy/representational services and informational services delivered was generally lower than the number of summary advice services provided in most years and was always substantially lower than the number of representational services provided. As might be expected, given the nature of CLO's and the fact that serious criminal and family matters are referred to offices handling tariff services, the problem mix for both advocacy/representational and summary advice services was dominated by civil problems (Table 1-5). Around 70% of these services were for civil problems and only 10-15% for criminal matters.

Some of the apparent stability in advocacy/representational and informational services is an artifact of reporting. As will be described more fully in the next section, several CLO/AD Offices had the option of reporting client contacts under the Legal Aid System or the Community Law Office System. During the period 1979 to 1982 several CLO/AD Offices moved from reporting primarily on the CLO system to reporting under the Legal Aid system, producing a reduced count of informational and advocacy/representational services. To see what growth patterns were actually occurring in the legal aid delivery system, it is necessary to examine services delivered through the major office types.

2.1.4 Services in Branch Offices, CLO'S, CLO/AD Offices, and through Area Directors.

The differential growth in the various services and various parts of the Legal Services Society can be seen in the volume and type of services provided by Branch Offices, CLO's (including Native CLO's), CLO/AD Offices and by Area Directors.

Table 1-6 contains counts of the total contacts by the various types of offices from 1977 through 1982. The total number of contacts in Branch Offices increased 37% from around 31,000 in 1977 to about 43,000 contacts in 1982. CLO client contacts decreased slightly (-5%). Contacts in CLO/AD Offices increased dramatically, from 7,000 to 20,000. Contacts made through Area Directors increased by 86%, but the overall number of Area Director contacts was small. From 1979 through 1982, the major contact points for potential clients were the Branch Offices, and, to a lesser extent, the CLO/AD Offices. The British Columbia legal aid system used Community Law Offices as preliminary intake points for Branch Offices and CLO/AD Offices. Individuals who go to a CLO may be referred to a Branch Office or CLO/AD for services not available at the CLO. These would primarily be representational services. In 1979, CLO's acted as a funnel for 1,651 individuals who eventually received services from Branch or CLO/AD Offices. In 1980, the number was 2,698; in 1981, 3,232; in 1982, 3,933. If these "pass-through" referrals to other offices are counted as CLO contacts, then CLO service volumes increased 13.9% between 1979 and 1982 instead of decreasing by 5%. The volume increases in CLO's were not for CLO specialty services such as advocacy representation or information but requests for more traditional legal aid representation by lawyers.

Before the differences in service patterns between the various offies are explored further, several technical comments should be made. First, as discussed previously in this section, until 1983, CLO's and Branch Offices reported on different information systems. Comparisons across information systems must be made with some care. Branch Offices and CLO/AD Offices handle many people who are applying for the subsidized services of a lawyer. The applications represent fairly major undertakings. In CLO's, individuals may stop in to ask for limited information or advice. Staff in CLO's are supposed to fill in a service sheet for each contact, but, since an individual contact might be short, it is possible that staff in the CLO's might not fill in a form for each contact. In fact, the community law office in Hazelton refused to report until fiscal year 1978-79. Kamloops initially reported under both information systems, but finally stopped reporting under the CLO system and reported all activity under the other system. Williams Lake continued to report under both systems, but the volume reported under the CLO system dropped off.

Second, over the period from 1977 until 1982, the type of office delivering services in a community occassionally

TABLE 1-6

PROVINCIAL PATTERN OF SERVICE DELIVERY
CLIENT CONTACTS BY TYPE OF OFFICE*

	1977	1978	1979	%	1980	%	1981	%	1982	%
BRANCH OFFICES	31,190	34,872	35,398	54.4	37,683	53.5	33,721	51.9	42,748	54.5
CLO	-	-	11,057	17.0	11,570	16.4	10.050	15.5	10,538	13.4
CLO/AD	7,701	8,697	15,542	23.9	17,727	25.1	16,781	25.8	20,159	25.7
AREA DIRECTORS	2,674	2,966	3,080	4.7	3,503	5.0	4,394	6.8	4,970	6.4
TOTAL			65,077	100	70,483	100	64,946	100	78,451	100

* Totals do not exactly match totals in Table 1-5. Some office identifiers were left off records, making it impossible to determine in which category to include the record. The difference in count is about 100 per year, a neglible amount.

changed. New Area Directors were designated; communities lost Area Directors. Over the period, a number of communities had their Area Directors replaced with offices. For the purposes of this analysis, the type of office located in a community during 1982 was used as the base designation for the type of office over the longer period analyzed. While such a designation distorts the figures it was the only distinction possible given the data available. Table 1-7 contains a list of offices whose organizational status changed over the period 1979 to 1982.

The services provided in these communities were counted as services provided by the current office type in the community. The manner by which enumeration was carried out increases the apparent growth of services delivered by CLO/AD Offices. As will be described in Chapter 2, communities served by Area Directors generally had low utilization rates; communities served by CLO/AD Offices had high utilization rates. Part of the increase in volume of services in the CLO/AD category represent a change from a low access delivery mechanism to a more accessible delivery mechanism, not increases in service volumes in existing CLO/AD Offices.

Considering the limitations of the available data, the pattern is still strong. Representational services delivered through Branch Offices, CLO/AD Offices, and by Area Directors were increasing. CLO specialty services were relatively constant.

The pattern of increase in representational services varied somewhat by problem area and by the type of offices providing the representational services. Branch Offices primarily handled representational services in the area of criminal law, either by representation by staff counsel or referral to private counsel on the tariff program (Table 1-8). In CLO/AD Offices, more family law cases were handled than in Branch Offices, but these offices still were primarily criminal tariff service providers. Area Directors also primarily handled intake for the criminal tariff program. The major distinction between the three types of offices can be seen in the proportion of civil non-family cases handled by staff counsel or through the pro bono referral system. Overall, a very small proportion of cases involved civil non-family matters; but given the small numbers, Area Directors made almost no civil pro bono referrals.

The differences between the types of offices are more evident when total contacts across all types of services are

TABLE 1-7

Changes 1979-82

COMMUNITY NAME	PREVIOUS OFFICE TYPE	CURRENT OFFICE TYPE	YEAR OF CHANGE
Burnaby	---	Br. Off.(Pub.D)	78/79
Dawson Creek	Area Director	Branch Office	78/79
Powell River	Area Director, CLO	CLO/AD	79/80
Quesnel	Area Director, CLO	CLO/AD	79/80
Pemberton	Area Director	—	79/80
Tofino/Ucluelet	Area Director	—	79/80
Kamloops	Branch Office, CLO	CLO/AD	80/81
Victoria	Branch Office, CLO	CLO/AD	79/80
Williams Lake	Branch Office, CLO	Branch Office	80/81
Ladysmith/Duncan	---	Area Director	80/81
Lillooet	---	Area Director	80/81
Chetwynd	---	Area Director	81/82
Gibson	---	Area Director	81/82
Trail	---	Area Director	82/83
Vernon	---	Branch Office	80/81
Kaslo	---	Area Director	80/81
Delta	---	Area Director	78/79
MacKenzie	---	Area Director	78/79
Squamish	---	Area Director	78/79
North Vancouver	---	Area Director	78/79

TABLE 1-8

Representational Mix
by
Office Type, 1981-82

TYPE OF LEGAL PROBLEM	BRANCH OFFICES '81	BRANCH OFFICES '82	CLO/AD OFFICES '81	CLO/AD OFFICES '82	AREA DIRECTORS '81	AREA DIRECTORS '82
Criminal	65%	70%	57%	63%	61%	68%
Family	30%	25%	39%	33%	38%	31%
Civil	5%	5%	4%	4%	1%	1%
	100%	100%	100%	100%	100%	100%

compared (Table 1-9). Branch Offices principally delivered criminal legal aid services (57-58% of total contacts), with a substantial proportion of family legal aid cases inter-mixed (26-30%). Civil non-family services accounted for only about one-seventh of the Branch Office contacts. The pattern of contacts through Area Directors was even more strongly tied to tariffable matters than the pattern in Branch Offices; civil non-family matters accounted for only 4% of the contacts.

The pattern of service delivery in CLO's is in direct contrast to the Branch Office and Area Director pattern. Only 8-10% of contacts involved criminal law problems once pass-through referrals to Branch Offices were subtracted.

The pattern in Native CLO's and CLO's was similar. Table 1-9 combined CLO's and NCLO's into one category. Native CLO's are administered under the Native Programs Branch of the LSS, separately from the other CLO's. When figures for NCLO's were separated from figures for CLO's, little difference could be seen in their problem mixtures. NCLO's had a slightly higher proportion of family law cases, but their problem mix was much more similar to CLO's than to Branch Offices, CLO/AD's or Area Directors. Civil matters dominated. Table 1-10 shows the mix of problem areas and services in CLO's and Native CLO's in 1982.

The pattern in CLO/AD's fell between the patterns found in CLO's and Branch Offices. Contacts were more evenly distributed across the three problem areas: neither criminal nor civil problems dominated the case mix.

The differences in problem mix across the office types raises obvious questions about the importance of organizational structures in the delivery of legal aid services. The type of office in an area appears to influence the pattern of legal aid services delivered. Generally, in areas served by a CLO/AD or CLO office a greater proportion of individuals seeking service present civil non-family problems than in areas served by a Branch Office or through an Area Director. Without knowing the underlying patterns of legal need or the distribution of legal problems, it is not possible to assess which, if any, of the delivery patterns matches the pattern of legal need. Chapter 2, which explores statistical models that help predict utilization, identifies some of the factors influencing what services are delivered. The factors identified in that chapter reinforce the patterns shown in Tables 1-8 and 1-9: type of office, independent of underlying legal needs, influences the types of services that are sought and actually provided.

TABLE 1-9

Problem Type Mix
by
Office Type
1981-82

CONTACT TYPE	BRANCH OFFICES '81	BRANCH OFFICES '82	CLO/AD OFFICES '81	CLO/AD OFFICES '82	CLO '81	CLO '82	AREA DIRECTORS '81	AREA DIRECTORS '82
Criminal	57%	58%	36%	36%	10%	8%	59%	63%
Family	30%	26%	28%	25%	17%	19%	37%	33%
Civil	13%	16%	36%	39%	73%	73%	4%	4%
TOTAL	100%	100%	100%	100%	100%	100%	100%	100%

TABLE 1-10

Service Patterns in CLO's and Native CLO's
1982

PROBLEM TYPE MIX		
	CLO	NATIVE CLO
Criminal	9.9%	11.7%
Family	11.9%	19.4%
Civil	76.1%	68.9%
	100 %	100 %

SERVICE MIX		
Advocacy/ Representation	26.8%	25.5%
Information	73.2%	75.5%
	100 %	100 %

British Columbia has a complex organization, the Legal Services Society, providing legal aid through several different delivery mechanisms. The delivery mechanisms, Branch Offices, CLO's, CLO/AD's, and Area Directors have an impact on which services are delivered. Ultimately, the Legal Service Society can determine, in part, the services provided through the mixture of office types it maintains.

The importance of office type in influencing which services are delivered must be interpreted carefully. Chapter 2 describes statistical utilization models which help identify the factors that influence utilization. These models generally describe a service delivery pattern set in a situation in which available resources (number of offices, number of staff) are insufficient to meet the underlying legal needs of the poor. In a situation where there is unmet need, the type of office providing a service is likely to influence the services actually delivered. With increased resources in number of offices and number of staff, the differences between office types should decrease. Patterns of utilization can be influenced because there is unmet need.

2.1.5 Other Services

As described at the beginning of this chapter, the Legal Services Society provides a wide range of services. Direct client services form a major part of the services delivered, but not all of them. The LSS provides duty counsel services, support for public legal education, library services, community development support, and, to a very limited extent, sponsors formal interventions to secure changes in existing administrative mechanisms or laws. The automated information systems used by the LSS enumerate contacts with clients or applicants. They do not record indirect client services. Personnel in 29 offices (Branch Offices, CLO's, NCLO's and CLO/AD Offices) were interviewed during 1983 to determine their views on many subjects and to obtain information about these other client services.

The information collected in the interviews contains staff estimates of time spent on different functions and self-reported patterns of service delivery. A staff lawyer or executive director was interviewed in each office. Estimates in this report are estimates for professional staff in the offices.

Estimates of the time spent on the following activities were obtained:

1. Direct client services including: representation in court or tribunal appearances; extensive services provided to an individual about his or her specific problem, including letter writing, filling out forms or preparation for family court or tribunal appearance; and advice or information to individuals.

2. Community development including specific outreach programs to enable individuals who otherwise lack the means or resources to organize or work as a group, or which assist existing groups whose activities promote civil rights, human rights and/or law reform.

3. Public legal education including the holding of workshops, classes or seminars to provide legal information to groups or the general public.

4. Intervention including formal contacts made with political or administrative authorities to secure law reform or change existing administrative procedures.

The interviews provided some information about direct client services which was not available from the computer information systems as well as information about other services. As described previously, at the time of the evaluation the LSS had two computerized information systems inherited from the pre-amalgamation Legal Services Commission and Legal Aid Society. In reporting service flows these information sources were kept separate. The category 'representational services' was used to describe case related activities by staff lawyers or referral lawyers handling criminal or family tariff work or civil non-tariff work in a Branch Office, CLO/AD Office or through an Area Director. The category 'advocacy representational services' was used to describe extended services in CLO's or CLO/AD Offices. These services might include tribunal appearances, but might be limited to letter writing or filling out forms. Though the distinction is artificial, no CLO or NCLO services were classified as 'representational services' and no CLO or NCLO services, at the time of the evaluation, fell under the criminal or family tariff. Since the time of the evaluation, the LSS has instituted a new computerized information system that rationalizes the two systems. Future data analysis should be able to identify overlapping functions between the different types of offices more closely.

When staff at the various offices were allowed to describe their own services, it proved possible to construct a slightly different, if subjective, view of how client services are delivered. When looking at time spent on non-administrative functions, staff in Branch Offices reported that around 90% of professional staff time involved direct client services: representation, advice or advocacy work. CLO/AD's and CLO's reported spending slightly less time on direct client services (around 84%) than Branch Offices did. NCLO's reported spending the least time (about 75%) on direct client services. Within this general category, all types of offices reported spending about the same amount of time providing advice and information, about 25-30% of their time (see Table 1-11).

The offices, however, reported spending varying amounts of time in direct representation of clients either in court or at tribunals. As might be expected, Branch offices, which have staff counsel, reported the highest proportion of time spent in court. In CLO's with no staff counsel, a smaller proportion of time was spent in court or at tribunals and virtually all of that time (10.75% out of 11%) came from tribunal work. The small amount of court time reported in CLO's represented courtworker time in Penticton where a paralegal provided daily courtworker services in the provincial court.

The Native CLO's (NCLO) reported a pattern quite different from the CLO's. The NCLO's reported spending 33% of their professional staff time in court or appearing with clients at tribunals. The relatively high proportion of time spent in court was directly tied to the fact that three of the four NCLO's where interviews took place had staff lawyers, making NCLO's similar to CLO/AD's even though they could not, at that time, approve legal aid tariff service applications. The court time reported by NCLO's involved both tribunal appearances and time spent acting as counsel in court. The pattern for CLO/AD's was similar to the pattern in NCLO's.

No office reported spending much professional staff time on community development (Table 1-11). Branch Offices reported spending less than 1% of their time on community development. CLO's reported the next lowest amount (2.5%) of time. CLO/AD's averaged 4.5%. NCLO's were highest with 8.0%. NCLO's are the newest type of office and their higher number might reflect the newness of the offices and their need to find a place within the network of local community organizations.

Similarly, no office type estimated spending much time on intervention activities. CLO/AD's and NCLO offices reported spending the most time (3.3% and 5.5% respectively). The pro-active stance of the neighborhood law firms in the United States has not been transferred into the British Columbia legal aid system. Only two out of 14 Branch Offices where interviews took place reported any intervention activity. Half of the CLO's and NCLO'S reported some intervention activity. Five out of six CLO/AD offices reported intervention activity, but said that little time is devoted to it. CLO/AD estimates ranged from 0% of office staff time to 15% of staff time. One NCLO estimated spending 15% of professional staff time in intervention activities, but generally, across all offices, little time was devoted to this type of activity.

The offices reported spending more time on public legal education (PLE) than community development or intervention. One director estimated that 26% of staff time was spent on PLE. The lowest reported proportion was 1%. As might be expected, CLO'S and NCLO'S reported spending more time on PLE activities than Branch Offices did CLO/AD offices fell between Branch Offices and CLO'S.

In all types of offices the emphasis was on the delivery of direct client services. The self-reported patterns showed little difference between the office types in allocation of time to indirect client services. Of the variation that was reported, most was individual office to individual office variation rather than variation according to office type. As found in the 1976 evaluation, Cui Bono, CLO'S, NCLO's and CLO/AD's were generally operating on a fairly traditional, direct service/client oriented model in 1983. The general pattern across office types was an orientation toward direct client services.

While the focus of this evaluation is on traditional legal aid services, it is extremely important to view these services within the broader conceptualization of legal aid which generally includes all direct and indirect legal services made available to the poor.

The organizational structure of the LSS, particularly through its contracts with CLO'S and their community boards, both permits and encourages local variation in service priorities. This decentralization of priority setting, however, has not generally produced local offices that make heavy commitments of time to indirect client services. While there were some differences between office types, most offices committed most of their time to provision of the

Table 1-11

Reported Time Allocations
by Office Type, 1983
(Proportion of non-administrative time)

	BRANCH OFFICES	CLO/AD OFFICES	CLO	NATIVE CLO'S
Direct Client Services:	92.6%	83.8%	83.8%	76.4%
a. Direct Representation (court & tribunals)	48.0%	34.0%	11.0%	33.1%
b. Non-Representational Advocacy	17.5%	19.3%	43.3%	% 18.9
c. Advice and Information	27.1%	30.5%	29.5%	24.4
Community Development:	0.5%	4.5%	2.5%	8.0%
Intervention:	0.4%	3.3%	1.25%	5.5%
Public Legal Education:	6.6%	8.5%	12.0%	10.8%

direct client services: direct representation; advice and information; and non-representational advocacy. Decentralization of priority setting has not produced any substantial variation in the allocation of time to different activities (except within the general category of direct client services) across the various types of service offices. Whatever impetus for indirect client services exists within the LSS comes primarily from centrally controlled and centrally delivered services, not from locally controlled or delivered services.

Along the same lines, the emphasis placed by local offices on direct client services moves the offices away from any proactive stance into a reactive stance, that is, the offices wait for clients to come to them. (Exceptions to this general pattern are dicussed in the next chapter). Decentralization has not generally produced substantial or significant programmatic variety. Little time is spent on proactive or out-reach activities.

2.2 RESTRAINT ANALYSIS

The impact of restraint programming by the government of British Columbia on the Legal Services Society was severe. Basic services were cut, offices closed, and staff laid off. The LSS instituted fixed financial eligibility requirements that may, in practice, have violated those sections of the federal-provincial legal aid agreement which require flexible standards.

2.2.1 Restraint Chronology

Table 1-12 contains a chronology of events during the current period of restraint. The LSS has, over the past one and one-half years, been in the position of having to react to reduced budgets. The LSS followed a course of incremental reduction in service, attempting to match its service delivery to funding levels. Demand was constrained by narrowing the categories of problems covered by legal aid, by tightening eligibility standards and by reducing staff and closing offices. These constraining actions had a dramatic impact on the demand for services. Table 1-13 shows the pattern of change in service levels by quarter during 1981-82 and the first quarter of 1983. Restraint programs were introduced on October 1, 1982, that is, the fourth quarter of 1982. The impact of restraint can be seen in the drop in volume of services in the fourth quarter of 1982 and the first quarter of 1983.

During 1981, the volume of services fluctuated upwards and downwards. The fluctuation was probably caused by a strike by LSS staff during the second quarter of 1981. Service volumes dropped 40% during the quarter of the strike from 18,473 total contacts in the first quarter to 10,974 contacts in the second quarter. There was a drop in summary advice services, advocacy/representation services, and in direct representation services. While attempts were made by LSS to provide referral services for criminal and family law matters, the administrative mechanisms used, such as taking more applications in court, may have been unable to reach as many people as the usual office arrangements.

The service volume counts were tabulated from automated information systems and may undercount the advice and information services actually provided during the strike. In any information collection system there is always some tendency for people to provide services which are not recorded. During the strike it seems reasonable to assume that those individuals still providing services were performing many functions and may have not filled in forms. It will never be possible to determine the absolute impact of the strike on services delivered, but the most likely impact was a decrease in services delivered and a decrease in reported services.

During the first three quarters of 1982, before restraint programs were introduced, service volumes increased above the 1981 levels, but remained relatively steady. After restraint programs were introduced volumes decreased rapidly. In the quarter after restraint programs were introduced, office contacts dropped to 16,531. In the second quarter after restraint programming began contacts dropped to 14,546. Over the two quarters there was a 25% drop in office contacts. The decreases came in direct representational services, primarily tariff services, and summary advice services. Direct representation services dropped by almost 3,500 in one quarter. Direct representation dropped about 45% from the quarter before restraint programs were introduced to the second quarter after restraint and 49% from the level one year before. Summary advice services initially increased, then decreased. The volume of information services provided in CLO'S and CLO/AD offices neither increased nor decreased. Advocacy/representational services, after a small decrease in the first quarter of restraint programming, increased, probably representing a transference of cases from tariff work to advocacy/representation work. The overall volume of such services, however, was small.

The selectivity of the impact can be shown by tracing the volume of services provided through the different types

TABLE 1-12

RESTRAINT CHRONOLOGY

DATE	ACTION
August, 1982	**1982/83 Grant Reduced** Notice given to the LSS by the Province that the 1982/83 provincial grant of $13,400,000 was being reduced by $625,000 **1983/84 Grant Reduced** Amended notice given to the LSS by the Province that the 83/84 provincial grant of $13,400,000 was to be reduced by $1,250,000 to $12,150,000.
Sept., 1982	**Staff Terminated** Layoff notices given to 16 staff in LSS Branch Offices and CLO's. Five vacant positions also eliminated. **Positions Eliminated** A further 20 staff positions projected to be cut on April 1st, 1983. **Budget Cut** Budgetary cuts made in client services, Legal Information Services and administration.
Oct. 1, 1982	**Tariff Reduced** Tariff fees cut by 12½%. Fees had been increased approximately 38% in September, 1981. (The overall tariff increase was 16% between 1973 and 1981). The budgetary impact of this increase had not been felt until well into 1982. **Legal Aid Tariff Coverage Reduced** (a) All divorce coverage except for those cases involving an immediate need to seek relief for family safety, custody of children or maintenance was eliminated. (b) Summary conviction coverage was reduced. Legal aid now available only where the risk of imprisonment was probable rather than possible. (c) Assistance to respondents in Family Court was eliminated except where the probable result of a hearing was imprisonment for the respondent or a protection order made against the respondent's child pursuant to the Family and Child Services Act.

TABLE 1-12
(continued)

	Eligibility Standards Changed Legal aid financial eligibility standards made more stringent. Previously discretion was allowed in determining financial eligibility. This discretion was replaced with a maximum income schedule which varied by family size and size of community. Exceptions to the fixed schedule could be made if undue hardship would result from denying services and if supported by a memo to Head Office. **Civil Coverage Reduced** Coverage of civil problems restricted to only the most urgent matters. **User Fee** A $30 user fee was introduced for clients not on social assistance. A $10 user fee introduced for clients on social assistance. The fee was "deemed" to be collected by the referral lawyer and the fee was subtracted from the lawyer's bill. There was no automatic deduction if the bill was less that $50 or if the client was in custody.
Dec., 1982	**Projected Deficit** Deficit for 1982/83 projected to be $2,200,000. Deficit for 1983/84 projected to be $3,500,000 including the carry-over deficit of $2,200,000.
Dec.15, 1982	**Proposed Restraint Measures** Further restraint measures proposed if additional funds not obtained. Proposed measures: (a) Suspension of criminal and family law tariffs for 3 months; (b) Elimination of Duty Counsel services; (c) Further cuts in Legal Information Services; (d) Reduction in the number of Board meetings; (e) Reduction in staff travel by 50%; (f) Elimination of legal aid for juveniles; (g) Reduction in legal aid coverage for most appeals; (h) Reduction in funding for legal information counsellors at Indian Friendship Centres.

TABLE 1-12
(continued)

Dec. 17, 1982	Restraint Measures Deferred Restraint measures proposed on December 15 deferred.
Dec.23, 1982	Provincial Grant Level Set for 83/84 The provincial grant for 1983/84 set at $12,350,000.
Jan., 1983	Provincial Grant for 82/83 Increased Provincial grant for 1982/83 increased by $800,000 bringing grant up to $13,575,000. Request for Increase Attorney General advised the LSS that his Ministry had requested a budget increase of $2,400,000 for LSS for 1983/84.
Jan.17, 1983	Law Foundation Application Application made to Law Foundation for supplementary grant of $1,400,000.
Feb.17, 1983	Law Foundation Funds Law Foundation provided an additional $500,000 in two installments.
Feb., 1983	Funds Frozen Board froze uncommitted program monies in both Legal Information Services and Native Programs (about $110,000).
March, 1983	User Fee Changed User fee no longer deducted automatically from lawyer's accounts. Deducted only if lawyer actually collects user fee. Effective for cases referred out after April 1, 1983. Program Costs Board proposed several changes, some of which were never implemented. (a) Implemented changes: 13 permanent staff positions eliminated; program cuts in Legal Information Services and administration department. (b) Unimplemented Proposals: program cut to Native programs; elimination of coverage for summary conviction offences and for individuals charged under the Juvenile Delinquents Act for the balance of the year. Law Foundation Grant The Law Foundation announced its grant would be reduced to $500,000 for fiscal 1983/84.
April, 1983	Provincial Warrants The Provincial government granted a special warrant of $1.9 million to reduce fiscal 1982/83 deficit.

TABLE 1-12
(continued)

May, 1983	**Law Foundation Grant** Law Foundation provided an additional $1,500,000 in 10 equal installments to bring the grant total to $2,000,000. This amount was still below the fiscal 1982-83 grant.
July 7, 1983	**Confirmed Budget for 1983/84** Provincial grant for 1983/84 set at $13,400,000.
July 21,1983	**Tariff Coverage Reduced** Multiple impaired driving offences no longer covered. Bail Show cause covered by duty counsel and only on tariff if duty counsel not available.
August, 1983	**Tariff Coverage Reduced** Tariff coverage reduced further. Coverage eliminated for individuals with prior related offences. **Offices Closed** Board decides to close offices in Smithers, Vernon, Maple Ridge and Cranbrook and to amalgamate the CLO and Branch Office in Nanaimo. Notice of closure effective September 1, 1983. Office closures to take place during remainder of calendar year.
Sept.1, 1983	**Tariff Coverage Reduced** Summary conviction coverage dropped where the applicant had a prior record for a related offence(s). Maintenance show cause coverage dropped.
Nov. 10, 1983	**Mountain v. LSS** British Columbia Court of Appeals decision requiring LSS to provide full coverge mandated by Section 3(2) of Legal Service Society Act at least until such time as funds exhausted.
Nov.21, 1983	**Tariff Coverage Expanded** Summary conviction coverage reinstated under a "reasonable chance" of imprisonment rule. Maintenance show cause coverage reinstated.

TABLE 1-13

Impact of Restraint Program on Volume of Services

								RESTRAINT	
YEAR	1981				1982				1983
QUARTER	1	2	3	4	1	2	3	4	1
Direct Representation									
Criminal	5437	3358	5337	5699	7031	7027	6879	5496	4386
Family	2976	1536	2859	2667	3389	3031	2849	1009	907
Civil	385	162	355	451	565	561	514	310	343
	8797	5056	8551	8817	10985	10619	10242	6815	5636
Summary Advice									
Criminal	1692	915	1347	1349	1487	1361	1594	2146	1529
Family	1280	644	1209	1115	1240	1425	1540	1696	1448
Civil	1359	691	1248	1571	1881	2085	1943	1876	1562
	4331	2250	3804	4035	4608	4871	5077	5718	4539
Advocacy Representation									
Criminal	162	130	186	131	91	116	127	121	320
Family	174	150	182	196	158	155	211	160	187
Civil	804	687	669	763	875	794	718	646	809
	1140	967	1037	1090	1124	1065	1056	927	1316
Information									
Criminal	551	416	433	362	380	378	403	365	484
Family	690	494	564	534	688	625	607	615	372
Civil	2963	1791	1833	1894	2945	2243	2056	2091	2159
	4204	2701	2850	2790	4013	3246	3066	3071	3055
Total Contacts									
Criminal	7842	4819	7303	7541	8989	8882	9003	8128	6719
Family	5120	2824	4814	4512	5475	5236	5207	3480	2914
Civil	5511	3331	4105	4679	6266	5683	5231	4923	4913
	18473	10974	16222	16732	20730	19801	19441	16531	14546

of offices (Table 1-14). In the three quarters before restraint programs were introduced, Branch Offices handled 52-55% of all client and applicant contacts (subtracting pass through client contacts at NCLO's and CLO'S). CLO/AD's accounted for 25-26% of contacts and CLO'S and NCLO's for 12-15% of contacts. Area Directors accounted for only 6-7% of contacts. After restraint programs were introduced, volumes of contacts through Branch Offices, CLO/AD's and Area Directors dropped. Proportionally, volumes dropped most rapidly in Branch Offices and Area Director's offices. By the second quarter of restraint programming the proportion of contacts made through Branch Offices, relative to other parts of the legal aid system, dropped to less than 50%. The Area Director proportion dropped below 4%, while the CLO proportion rose to nearly 20%. The CLO increase was the result of a proportional shift, not an increase in absolute numbers.

Restraint programming affected the Branch Office and Area Director components of the system. This should not be surprising. Many of the restraint measures involved reduction in coverage under the tariff programs. Branch Offices and Area Directors primarily provide services for the legal aid tariff program. CLO/AD's and CLO's provide a range of direct client informational and non-tariff services.

The differential impact of restraint can also be seen by looking at staff reductions. Table 1-15 contains a list of staffing levels in offices from fiscal year 1976/77 until the second round of staff reductions in April, 1983 (announced in March, 1983). Branch Offices, CLO/AD's and CLO's all lost staff, but the greatest reduction in staff occurred in CLO/AD's. Branch Office staffing levels were reduced about 20%; CLO/AD staffing levels were reduced 26%. In CLO's the reduction was only 6%. NCLO staff increased. The NCLO increase was the result of the opening of a long planned office in Burns Lake. The differentially higher staff reductions in Branch Offices and CLO/AD's complements the reduction in tariff services. The legal aid plan side of legal aid in British Columbia was greatly reduced.

2.2.2 Post Restraint Efficiency

It is difficult to measure the impact of restraint on the performance of the LSS. The level of services was greatly reduced during the term of the evaluation. The level of services has now been increased again under the ruling in Mountain v. Legal Services Society, [1984] 2 W.W.R. 438 . The increase may be short lived: the Attorney General of British Columbia has indicated that he may intro-

TABLE 1-14

Impact of Restraint in Different Offices

YEAR	1982			RESTRAINT	1983
QUARTER	1	2	3	4	1
Branch Offices	10859 52.4%	10908 55.1%	10747 55.3%	9013 54.5%	7484 49.5%
CLO/AD's	5289 25.5%	5321 26.9%	5063 26.1%	4256 25.7%	4091 27.1%
CLO's	3194 15.4%	2363 11.9%	2394 12.3%	2437 14.7%	2992 19.8%
Area Directors	1379 6.7%	1206 6.1%	1227 6.3%	834 5.1%	537 3.6%
	100%	100%	100%	100%	100%

TABLE 1-15

STAFFING LEVELS

(a)

Branch Offices[1]

	LAWYER	SECRETARY	PARA	TOTAL STAFF	# OF OFFICES
76/77	30	36	2	68	14
77/78	32	37	2	69	14
78/79	33	36	4	73	14
79/80	34	37.5	4	75.5	15
80/81	33.5	37.8	4	75.3	15
81/82	33.5	37.3	4[2]	74.8	15
Oct., 1982	29	34.8	3	66.8	14
Apr., 1983	26	30.3	3	59.3	14

[1] The Vernon intake office is subsumed under the Kelowna Office count. Bella Bella, where a contract lawyer was used, is not counted.

[2] Includes an articling student.

(b)

CLO/AD[3]

	LAWYER	SECRETARY	PARA	TOTAL STAFF	# OF OFFICES
76/77	2	6	8	16	4
77/78	2	6.5	8	16.5	4
78/79	6	10.5	11	27.5	5
79/80	7	12.5	11.8	31.3	5
80/81	9	16.5	17.3	42.8	6
81/82	9	16.67	16.3	41.97	6
Oct. 1982	6.25	14.17	13.5	33.92	6
April 1983	6.25	12.67	12	30.92	6

[3] CLO/AD Office counts include the prison services project located within the Abbotsford CLO/AD Office.

Note: Staff were counted on actual work done. Fractional staff represent part-time employees or persons employed for part of a year. (Source: Comptroller LSS)

(TABLE 1-15 continued)

(c)
COMMUNITY LAW OFFICES[4]

	LAWYER	SECRETARY	PARA (LIC's)	TOTAL STAFF	# OF OFFICES
76/77	0	7	17	24	7
77/78	3	9	15	27	7
78/79	1	7	14	22	6
79/80	1	7	13	21	6
80/81	1	4.5	11.5	17	6
81/82	0	4	13	17	7
Oct., 1983	0	4	13	17	7
Apr., 1983	0	4	11	15	5

[4] The paralegal operations in Langley, Richmond and the North Shore are included in these figures. The LSS administers the Law Society funds used to run the Langley operation. The Richmond and North Shore offices were dropped from the totals when funding by LSS stopped.

(d)
NATIVE COMMUNITY LAW OFFICES

	LAWYER	SECRETARY	PARA (LIC's)	TOTAL STAFF	# OF OFFICES
76/77	3	5	6	14	4
77/78	3	5	6	14	4
78/79	3	6	6	15	4
79/80	3	6	7[5]	16	4
80/81	3	6	6	15	4
81/82	3	7	7	17	5
Oct., 1983	3	7	7	17	5
Apr., 1983	3	7	7	17	5

[5] Includes articling student.

(TABLE 1-15 continued)

(e)
ALL L.S.S. OFFICES[6]

	LAWYER	SECRETARY	PARA	TOTAL STAFF
76/77	35	54	33	122
77/78	40	57.5	31	128.5
78/79	42	60.5	34	136.5
79/80	44	63	35.8	142.8
80/81	45.5	64.8	38.8	149.1
81/82	45.5	64.97	40.3	150.77
Oct., 1982	38.25	59.97	36.5	134.72
Apr., 1983	35.25	53.97	33	122.22

[6] Excluding Head Office staff and Area Directors.

duce legislation making it possible for the LSS to provide reduced service under constrained budget conditions.

Interviews were conducted in Branch Offices, CLO's NCLO's and CLO/AD's during June, 1983. The director in each office was asked to estimate the office's ability to deliver services since the introduction of the first round restraint programming in October, 1982. (It should be noted that the estimates do not cover the second round of cuts and came prior to the recent increase in services.) Table 1-16 contains the office estimates of the impact of restraint.

As can be seen from the table, Branch Offices and CLO/AD's perceived substantial reductions in their ability to deliver services. They also experienced the greatest cuts. Native CLO's actually thought they were better able to deliver services. They received increases in their budgets and did not experience staff reductions. CLO's reported some decrease in their ability to deliver services, but a much smaller decrease than reported by either Branch Offices or CLO/AD Offices.

A major decrease was reported in offices in the East Kootenays. Offices in the Central Interior reported, on average, no reduction in services. Some offices reported handling rejected tariff applicants under other guises. Some offices reported increasing PLE or referring more cases to social service agencies. Three offices reported no decrease in service levels. One office reported an increase of 40% in service levels.

The directors of offices were also asked to estimate the impact of restraint for various types of services. Table 1-17 contains their estimates. Adjustments to restraint measures varied by type of office. Though there was a good degree of variation from office to office, Branch Offices and CLO/AD Offices reported, on average, the greatest reduction in their ability to provide representational services, either in court or at tribunals. CLO/AD Offices shifted their focus towards short services, that is, services that involved some action such as writing a letter or making a phone call, but which required little time. This shift was in keeping with their having paralegals on staff. Branch Offices shifted towards more information services (summary advice). CLO's reported shifting towards more information services. NCLO's reported increases in both short case specific services and information services.

TABLE 1-16

Perceived Impact of Restraint

QUESTION: On a scale of 100, assuming that your ability to deliver services in September, 1982, was 100, how would you rate your ability to deliver services since the October, 1982 cutbacks?

BRANCH OFFICES	64
CLO/AD OFFICES	62
CLO's	86
NATIVE CLO's	107
AVERAGE	72

TABLE 1-17

Office Estimates of Efficiency Changes* Caused by Restraint Programming, June 1983

OFFICE TYPE	PROCESSING REFERRALS	REPRESENTATIONAL SERVICES **	SHORT SERVICES	INFORMATION	COMMUNITY DEVELOPMENT	PLE	INTERVENTION
Branch Offices	-1.3%	-23.1%	-7.8%	+11.0%	-6.7%	-2.5%	-1.2%
CLO/AD's	-19.5%	-23.7%	+15.0%	+2.9%	-12.8%	-10.0%	-11.7%
CLO's	—	-8.3%	-0.4%	+20.3%	+5.0%	-4.9%	-25.0%
Native CLO's	—	-1.7%	+19.1%	+19.1%	-8.3%	-17.5%	—
Average	-4.7%	-18.1%	+4.9%	+11.1%	-4.6%	-7.8%	-6.0%

* Perceived percentage reduction in ability to serve clients caused by restraint cutbacks

** Includes advocacy/representation

There has been a general, minor reduction in community development, PLE and intervention activities, but these were relatively rare activities before restraint and proportional reductions mean less.

The variation in the impact of restraint at the office level can be seen by looking at the reported impact in individual Branch offices (Table 1-18).

Many Branch offices perceived little if any negative impact for the early rounds of restraint in their ability to provide services. However those that did report a negative impact reported dramatic decreases in their ability to provide services, ranging up to a 60% reduction.

2.2.3 Restraint Summary

The impact of restraint has been varied. While overall, until the recent increase mandated by Mountain, there was a dramatic reduction in levels of service, some parts of the legal aid system were more seriously affected than other parts. Branch Offices and CLO/AD's experienced the largest staff cuts, the greatest reduction in service levels and the greatest perceived reductions in ability to provide services. Even among the Branch Offices, some office directors perceived little impact on their ability to provide services; others perceived a major reduction in their ability. NCLO's perceived the least impact and actually experienced little reduction in resources. CLO's and NCLO's showed little reduction in service levels.

The impact of restraint programs varied. Tariff services were greatly reduced. Informational services remained fairly constant. Branch Offices and CLO/AD Offices experienced greater changes than CLO's or NCLO's. Even among the high impact office types, some perceived no major reduction, in fact some noted increases in the office's ability to deliver service; others experienced major decreases.

This variation points to one of the dangers in rapid, forced response to restraint measures. It is not possible to produce uniform reductions in service or even reductions in accordance with set priorities if there are no mechanisms to facilitate the reductions. LSS was able to reduce coverage, but the reductions differentially affected individuals seeking representation, not those seeking information.

TABLE 1-10

BRANCH OFFICE** IMPACT* OF RESTRAINT PROGRAMMING ON SERVICES

	NO IMPACT	NEGATIVE IMPACT	POSITIVE IMPACT
Processing Referrals	8	2	2
Representational Services	5	7	-
Short Service (Non-Representational)	4	4	4
Information	6	1	5
Community Development	10	2	-
PLE	10	1	1
Intervention	10	1	-

* Impact measured in terms of ability to provide services.

** Two offices interviewed did not answer the question.

While this may have been the goal of the reductions, it seems unlikely given the importance attached to Section 3(2) of the Legal Services Society Act setting out when representational services should be provided. Branch offices and CLO/AD's felt the major organizational impact of reduced coverage. The LSS was able to reduce staff, but differentially reduced Branch Office staff and CLO/AD staff. Among Branch Offices and CLO/AD's there were differential impacts depending on where the staff cuts were made. The LSS, however, had and has no other tools for making rapid cuts in its budget. Attempts at introducing a user fee failed to work uniformly. Access can be limited by making new coverage rules or by making services less accessible by reducing staff and closing offices. Coverage for tariff services can be incrementally reduced. It is more difficult to make incremental reductions in advice and information services. If budgets ever do increase, the LSS Board will have to take a serious look at setting service priorities and developing funding mechanisms that make uniform reductions possible, if desired, or at least make it possible to fund programs in accordance with priorities.

2.3 FUTURE DIRECTIONS

The LSS is a complex organization which is currently suffering through a period of instability. Services are not stable; funding is not stable. When the economy improves, the LSS may have an opportunity to rebuild its service delivery base. To rebuild, it will be important to know the views of staff, the bar and other major actors about the services that were cut and about the services that are considered important.

To gain a picture of what future directions might be followed, three types of analysis were performed. First, staff at headquarters, in Branch Offices, and in CLO's, and a group of individuals external to LSS but interested in legal aid were asked to take part in a goal setting exercise. Second, a random sample of members of the private bar was asked, by questionnaire, for their views on legal aid. Third, directors of the LSS Branch offices, CLO/AD's, and CLO's were interviewed about service reductions during restraint and about the services they would like to see restored if funding levels were ever increased. Using these three sources of information, a picture of the future of legal aid, desired by the private bar, legal aid staff and external user groups was constructed.

2.3.1 Future Directions: Staff and External User Views

As outlined in section 1.3, while there are guiding principles set out in section 3 of the Legal Services Society Act, there are presently no formal Board approved statements of goals and objectives for the LSS. No doubt the major reason for this lack of formal directives is the extremely complex structure of the organization. The LSS is basically an amalgamation of two very different modes of service delivery: community law offices and Branch Offices. Because these two types of offices are structurally different, it has always been assumed that the goals and objectives of these offices would be different. Under this assumption, the expression of formalized goals or objectives by the administration of the LSS might lead to emphasizing differences within the organization. In addition, CLO Boards, within contractual limits, set their own goals. The decentralized structure of LSS leads to a potential proliferation of goals and objectives. As a countervailing force, the period of restraint in the province has put pressure on the LSS to articulate its goals by setting priorities and budget implementing cuts.

The restraint period in British Columbia has forced the LSS Board and Head Office managers to take increasing control over service delivery by more narrowly defining legal aid eligibility and problem coverage. Successive provincial government cutbacks have forced the Board of Directors into a stance of reacting to actions by the provincial government without time for systematic or detailed response from the local service offices. In response to funding cutbacks the LSS instituted its own restraint measures. Radical cost-saving measures were implemented. These cost-saving decisions had the effect of emphasizing central authority in the organization. While the Board has tried to maintain the integrity of CLO's and their local boards, the effect of restraint has been the imposition of more rules designed to control local office actions. The LSS is currently pulling in two conflicting directions: the Board adopts policies and make assertions to the effect that contract offices be able to control their own futures; but the Board and Head Office managers take actions which restrict local office autonomy by specifying policies and procedures and by limiting services and funds under restraint budgets.

The increased central authority within the LSS makes it important for the organization to be aware of potential conflicts in the views of its staff about appropriate directions. When the goals and objectives of an organization are not formally stated, as is the case for the

LSS, confusion and misunderstanding may arise among its members. Individuals within the organization may develop different perceptions of the goals and objectives. For example, the increased accountability created by the new computerized information system could be perceived by the CLO'S as an attempt to undermine their autonomy and their power to set local priorities. The staff in the CLO's might be concerned that the next step, expecially in a period of restraint, would be the creation of uniform minimum standards of service. If this were not the goal of the Board, the expression of formalized goals and objectives could clear up potential misunderstandings.

2.3.1.1 The Delphi Approach

One method of determining the goals and objectives of an organization is through the use of a modified Delphi goal setting exercise. The original Delphi technique was formulated by the Rand Corporation in the early 1950's as a method of eliciting and refining collective opinions. It was initially designed to avoid the problems of face-to-face confrontations in group decision-making. When there are conflicting opinions, face-to-face attempts to resolve them often fail, merely masking unresolved conflicts within the dynamics of interpersonal confrontation. The Delphi technique, as used in this evaluation, makes use of survey questionnaires to ask people sets of questions about the importance of different types of services provided by the LSS, the importance of providing legal services for different types of legal problems, the importance of providing services to special community interest groups, and the importance of providing education and information about the law to the public. These questions were developed from consultation and interviews conducted with the LSS and CLO staff across British Columbia. The importance of these issues was measured by asking the respondents to rate their answers on a scale ranging 0 to 10, with 0 being "not important at all" and 10 being "extremely important".

Participants were selected on the basis of their knowledge of and experience with the legal aid services provided in British Columbia. Four groups of respondents were asked to participate in the Delphi process. These four groups were composed of staff from the LSS Head Office; staff from Branch Offices; staff from Community Law Offices and CLO/AD Offices; and people from external agencies who had worked with and were familiar with the legal aid system. These four groups were chosen because they represent different groups whose views affect LSS as a whole. Head Office staff included both administrators of the LSS as a whole and administrators and staff of centrally run programs such as the Library Information Services program and the Schools program. Since this group included both managers and PLE program people, the responses reflected an orientation towards PLE and community work. Since Branch Offices, Community Law Offices, and CLO/AD's developed from different historical bases it was thought that it would be important to compare their views to see if they were similar or if they were in conflict. Finally, a group of individuals from agencies external to the LSS, but with an interest in legal aid, was included to provide the views of professions dealing with the LSS. This group included individuals from organizations such as the Salvation Army, the Elizabeth Fry Society, and The People's Law School. While this external group is in no way random, (a random sampling of interested parties is not even conceptually possible) it represents a group selected with the advice of the LSS Head Office staff and reflects their views of the relevant interest groups whose views they were interested in knowing.

The answers to each question were aggregated according to these four groups. Table 1-19 shows the actual number of respondents in each group. Participants in the Delphi exercise were asked questions in two "rounds" and given the chance to change their views in the second round after consideration of the views expressed by others in the first round. In a Delphi exercise many rounds of questionnaires can be used until either a consensus on viewpoints is reached or irreconcilable conflicts are identified. Only two rounds of questions were used in this exercise because of limited time. The two rounds, however, made it possible to identify when the groups were moving towards consensus and when views were diverging.

TABLE 1-19

Number of Participants in the Delphi Questionnaire

Group	Round 1	Round 2
External	19	9
Head Office	16	12
Branch Office	34	21
CLO and CLO/AD's	29	13
TOTAL	98	55

In the first round of the Delphi exercise, each participant was asked independently to rate the long range importance of various legal aid services. These answers were analyzed and, in a second round of the Delphi exercise, the respondents were asked to re-evaluate their responses in light of views of other participants. Participants were given formal definitions of the services they were asked to rate. The formal definitions provided them with some common basis for rating.

While the Delphi technique is sometimes used to obtain a consensus it is not always possible. Rather than obtaining a consensus a Delphi exercise sometimes shows potential conflicts in goals. When differing underlying viewpoints or philosophies exist there may be no convergence of views. When re-evaluating their opinions, participants might not change their previous positions and there might not be any movement toward consensus. In order to see whether or not there is a convergence of views it is important to compare differences in the distribution of responses between rounds of the Delphi exercise. Three types of comparisons can be made that yield useful trend information.

1. Did the average scores (means) of the group converge or remain divergent after participants re-evaluated their positions?

2. Was there general agreement among the participants of each group, for each of the questions, or was there a lot of variation within the groups?

3. Did some groups consistently rate everything quite high or low thereby exhibiting little variability between questions?

4. Did groups of respondents rank order options similarly?

2.3.1.1.1 Technical Note

The analysis of the Delphi questionnaire required statistical analysis. The statistical tests are placed in tables at the end of the chapter. The statistical calculations included measures of central tendency (such as the mean) and measures of dispersion (such as the standard deviation or variance).

In addition, one-way analysis of variance was performed to determine whether group views differed and how groups ranked services. The Scheffé method was used to distinguish whether any two group means or service means differed significantly from one another. Harmonic group means were used to adjust for different group sizes. Group differences that were significant at the .05 level are highlighted. If the means did not statistically differ from each other, then a consensus was assumed. The tests used with the harmonic mean tends to be conservative: there may be differences in the means that would be identified by other tests. On the other hand, repeated comparisons of means will identify some differences by chance. It is the pattern of differences that is most important.

While the numbers in the tables may vary, the differences did not always prove to be statistically significant. Only differences coupled with consistent views within a responding group produced statistically significant differences.

2.3.1.2 Importance of Services

Delphi participants were asked to rate the importance of various types of services within the LSS as a whole (that is, considering the needs of the province as a whole). The participants rated seven types of service: direct representation; advice and information to individuals; community development; intervention; non-representational advocacy; legal education and information programs; and self-help clinics.

Direct representation was defined in the Delphi exercise as the formal representation of eligible individuals in legal proceedings concerning criminal, family or other civil matters. This is the traditional role of legal aid and probably the one with which the public is most familiar. The other services were defined as follows:

Advice and information is a short term service which is usually provided in a single interview. It is a service in which individuals may be assisted in clarifying the nature of their legal problem, advised on certain procedures, provided with pertinent written information or given a referral for more in-depth assistance.

Community development, as defined in the Delphi exercise, refers to specific outreach programs. These programs assist groups whose activities promote the legal rights of specific needy groups, civil rights, human rights, or law reform. Assistance can also be given to enable individuals who lack the means or resources to organize into groups.

Intervention involves making formal contacts with political or administrative authorities to secure law reform or change administrative procedures.

Non-representational advocacy is a service which assists individuals in pursuing the resolution of their own legal problems. The service may extend over several contacts and assistance may mean helping these individuals write letters, fill out forms, prepare for a small claims, family court or tribunal appearance, etc. It does not extend to actual representation of an individual before a court or tribunal.

Legal Education and Information programs produce and distribute written and audio-visual materials containing legal information for the public at large. Programs include the provision of instructional materials, training, or funding to professionals or lay persons who give legal information to the public. (e.g., teachers, librarians, community groups). They may also include workshops, classes or seminars to provide legal information to groups or the general public.

Self-help clinics provide assistance to groups of individuals who have similar problems. One or several sessions may be held allowing these individuals to complete a particular legal process on their own or gain enough knowledge to "handle" their own legal problems (e.g., divorce clinics, immigration appeal clinics or clinics to help people prepare for other tribunal appearances).

In general terms, all services were rated quite important, showing a high level of commitment both to the general mandate of the Society (representation and information) and to the programs inherited by the Society from the Legal Services Commission (see Table 1-20). Within this general pattern of support, there were some differences worth noting. Generally, Head Office Staff (managers and PLE program people) rated all services more highly than the other groups of participants and showed less individual variation among themselves in assigning ratings than did members of the other groups. For the external participants, Head Office staff, and CLO and CLO/AD staff there was no statistically significant difference in the rank orderings of their ratings. For these groups, all services were considered of about equal importance.

Branch Office staff, however, made distinctions between types of service. For Branch Office staff direct representation and advice and information services were

Table 1-28

DELPHI QUESTIONNAIRE

Summary of
Rated* Importance of Services
Round II Results

TYPE OF ACTIVITY	GROUP AVERAGES							
	EXTERNAL		HEAD OFFICE		BRANCH OFFICE		CLO's/CLO/AD	
	Rating	Priority**	Rating	Priority	Rating	Priority	Rating	Priority
Direct Representation	9.22	H	9.25	H	9.43	H	8.62	H
Advice & Information	8.89	H	9.08	H	8.19	H	8.69	H
Community Development	7.22	H	8.83	H	4.81	L	7.00	H
Intervention	5.78	H	7.92	H	4.85	L	7.23	H
Non-Representational Advocacy	7.00	H	8.33	H	6.04	M	7.69	H
Legal Education and Information Programs	7.33	H	8.83	H	5.55	L	7.62	H
Self-help Clinics	7.44	H	8.42	H	5.35	L	6.77	H
AVERAGE MEAN RATING	7.55		8.67		6.32		7.66	

* Ratings on a scale of 0 to 10 (not important at all to extremely important)

** Priority ratings: H-High; M-Moderate; L-Low.

considered the most important. Non-representational advocacy was given second priority and the remaining services were ranked even lower in importance.

In looking at overall goals for service delivery, Branch Office staff set different priorities than staff in other offices and in Head Office. Attempts to increase the priority given to community development, intervention, PLE or self-help clinics in Branch Offices would most likely meet resistence if done at the expense of direct client services. In staff interviews in offices, no office type reported spending much time on these indirect client activities. (See Chapter 1, Section 2.1.5). However, the lack of time spent on indirect client services may be tied to an assignment of lower priority by Branch Office staff. There was no movement towards convergence between Round I and Round II. Knowing the other's views about indirect service activities did not move Branch Office staff closer to Head Office or CLO views, nor did knowing Branch Office views alter Head Office or CLO positions.

2.3.1.3 Importance of Legal Problem Areas

Participants in the Delphi exercise were asked to rate the importance of thirteen legal problems shown in Table 1-21. Participants were then asked to rank order service delivery methods in terms of appropriateness to each one of these problem areas. The respondents were given a choice of three service delivery modes: direct representation (D), non-representational advocacy (N), and self-help clinics (S). The results of their rankings of delivery methods are shown in Table 1-22.

The results presented Table 1-21 show a substantial range in the rated importance of legal problems. Indictable criminal matters were excluded from the rating list because of the obvious importance of maintaining services. There was little consensus about the importance of providing services in the various problem areas included in the Delphi exercise. The external participants' ratings produced three clusters of problem areas. Insurance Corporation of British Columbia (ICBC) disputes stood out as an area considered unimportant by external raters. Custody matters, maintenance matters, summary criminal offences and contested divorces were generally rated highly. The remaining areas (small claims matters, welfare appeals, unemployment insurance appeals, Rentalsman matters, provincial motor vehicle code offences and immigration appeals) formed the middle group.

Table 1-21

Summary of
Rated Importance of Legal Problem Areas
Round II Results

TYPE OF LEGAL PROBLEM	GROUP AVERAGES							
	EXTERNAL		HEAD OFFICE		BRANCH OFF.		CLO's/CLO/AD	
	Rating	Priority	Rating	Priority	Rating	Priority	Rating	Priority
Summary criminal offences	8.78	H	8.40	M	7.89	M	7.17	M
Contested divorce	8.56	H	8.64	M	9.32	H	8.25	M
Uncontected divorce	5.00	M	4.82	L	4.11	L	4.00	L
Custody matters (family court)	9.22	H	9.18	H	9.16	H	8.92	H
Maintenance matters (family court)	8.56	H	7.73	M	6.95	M	7.42	M
Small claims matters	5.44	M	5.45	M	3.00	L	4.75	M
Welfare appeals	8.11	M	8.73	H	6.63	M	8.00	M
Unemployment insurance appeals	7.78	M	8.45	M	6.89	M	7.83	M
Appeals to Rentalsmen	6.44	M	7.64	M	4.95	M	6.42	M
Provincial motor vehicle code offences	4.44	M	6.00	M	3.21	L	4.17	L
ICBC disputes	3.11	L	6.18	M	4.58	M	5.25	M
Immigration appeals	7.44	M	8.09	M	7.84	M	7.18	M
Workers compensation appeals	6.78	M	8.36	M	8.16	H	7.92	M

As with types of services, Head Office participants did not discriminate much between problem areas. Almost all areas were given high ratings. Only three problems received any extreme ratings. Head Office staff considered custody matters and welfare appeals more important than uncontested divorces. Otherwise, all other areas were given a relatively uniformly high priority. Based on their Delphi exercise responses, Head Office staff would have a difficult time setting priorities among problem areas.

Branch Office staff were better able to discriminate between problem areas. Branch Office staff set high priorities (rated highly) for custody matters, contested divorces, and workers' compensation appeals. They gave uncontested divorces, small claims matters, and provincial motor vehicle code offences low priority. The other problem areas formed a middle ranking cluster.

CLO and CLO/AD staff ratings produced three groupings of problem areas. Custody matters were ranked highest. Uncontested divorces and provincial motor vehicle offences were ranked lowest. All other problem areas clustered in a middle ranked range.

Across the three staff groups, Head Office, Branch Offices and CLO's, only custody matters were given high priority. Otherwise, there was little consensus in high and low rankings; and for Head Office and CLO staff little discrimination between problem areas. There was some important consensus in the fact that no groups, except the external participants, seemed to make their ratings based on broad areas of law (criminal, family, and other civil). Staff did not segregate other civil areas into different groups from most family problem areas.

Table 1-22 shows the order of preference among the three service delivery methods. For many of the problem areas there was consensus among the four groups about the preferred methods for delivering services.

All four groups agreed that the order of preference for summary criminal offenses, contested divorce, custody matters, maintenance matters, and immigration appeals was direct representation (first), followed by non-representational advocacy (second), and then self-help clinics (third). For the other problem areas, there were differences of opinion about the preferred method of service delivery. Only Delphi participants from CLO's and CLO/AD's varied much from the other three groups. Participants from CLO's and CLO/AD's seemed to disagree with staff from Head

Table 1-22

Summary of
Order of Preference of Service Delivery Methods

TYPE OF ACTIVITY	GROUP AVERAGES											
	EXTERNAL			HEAD-OFFICE			BRANCH			CLO		
	1	2	3	1	2	3	1	2	3	1	2	3
Summary criminal offences	D	N	S	D	N	S	D	N	S	D	N	S
Contested divorce	D	N	S	D	N	S	D	N	S	D	N	S
Uncontected divorce	S	N	D	S	N	D	S	N	D	N--S*		D
Custody matters (family court)	D	N	S	D	N	S	D	N	S	D	N	S
Maintenance matters (family court)	D	N	S	D	N	S	D	N	S	D	N	S
Small claims matters	S--N*		D	S	N	D	S	N	D	N--S*		D
Welfare appeals	D	N	S	N	S	D	S	N--D*		N	D	S
Unemployment insurance appeals	D	N	S	N	S	D	N	S	D	N	S	D
Appeals to Rentalsman	S--N*		D	S	N	D	S	N	D	N--S--D*		
Provincial motor vehicle	S--N*		D	S	N	D	S	N	D	N--S--D*		
ICBC disputes	S--N		D	N	S	D	N	S	D	N--D--S*		
Immigration appeals	D	N	S	D	N	S	D	N	S	D	N	S
Workers compensation appeals	N	D	S	N	D	S	D	N	S	D	N	S

D=Direct representation / N=Non-representational Advocacy / S=Self-help clinics

* Services denoted with a hyphen (e.g. D-S) represent a tie in the order of preference.

Office and Branch Offices and preferred non-representational advocacy more frequently. This should not be surprising since these offices employ legal information counsellors who specialize in non-representational advocacy.

2.3.1.4 Community Development

At the beginning of the Delphi exercise, participants were asked to rate the importance of community development generally. There was consensus about the overall importance of community development. In particular, Branch Office staff gave a low priority to community development. This lack of consensus may be a product of the fact that community development may be inexorably tied in people's minds to this idea that these services are intended only for the benefit of specific minority groups.

Community development may mean many things. To see whether there was any underlying consensus about the specific groups believed to be most in need of community development help, participants were asked, by means of a hypothetical problem situation to rate the importance of serving specific community groups.

In the hypothetical problem situation, participants were asked to think of themselves as the administrator of a limited community development fund for the LSS. Applications for funds are made to the administrator by local LSS offices wishing to work with certain target groups in the community. Participants were asked to make the following assumptions:

1) The target group is assessed by the local LSS office as being the most important target group in the local community. The office has documented this assessment by a process which is as good as that in each of the other funding applications.

2) The local LSS office has a qualified and appropriate person to undertake community development activity with that group.

3) The proposed project appears as cost efficient as each of the other projects submitted.

Given that all the applications were of similar high quality, and that there was a limited budget for funding, the particpants were asked to assess the importance of each target group. The structure of the hypothetical problem situation was intended to reduce the importance of local considerations and produce rankings based on province-wide considerations. In addition, participants were asked to base their rankings on the needs of the province as a whole.

Table 1-23 shows the average rating of the four respondent groups for twenty-seven different community groups. Except for farm workers, welfare groups, child abusers, and native bands, the specific groups included in the list were suggested by participants in the first round of the Delphi exercise. The four initial groups were included in the first round of the Delphi to "seed" responses.

The overall results from Table 1-23 were very similar to patterns found in the previous Delphi sections. Among the four participant groups there was a tendency for Head Office staff to rate almost everything higher in importance and for Branch Office staff to rate almost everything lower in importance.

When the ratings were rank ordered, there was little apparent agreement between the participants in the Delphi exercise. Within each participant group, participants rated most community groups across a wide range of importance. What little consensus there was placed battered women as the group with the highest priority. The external participants ranked anti-pornography groups lowest. The variation in ratings of the other community groups meant that it was not possible to rank order the importance of community groups clearly.

Head Office staff (managers and central program staff) made more distinctions between community groups than they did between services or areas of law. Child abusers, wife abusers and disarmament groups ranked lowest. Young offenders, mental patients and battered women ranked highest. The other groups (see Table 1-23) fell into a middle ranking cluster.

Branch Offices and CLO's made few distinctions between community groups. Only anti-pornography groups and battered women stood out. Anti-pornography groups ranked low; battered women ranked high. There was, however, a large amount of variation in the ratings.

The lack of discrimination between the ratings for community groups would indicate that attempts to help selected groups (except battered women) would run into resistance. Staff are unlikely to agree on the merits of helping specific community groups or on the criteria for choosing between them. Interestingly, Head Office staff have more clearly defined priorities than staff in offices.

Table 5-23

Summary of Importance of Specific Community Groups

ASSISTED GROUP	GROUP							
	EXTERNAL		HEAD OFFICE		BRANCH OFF.		CLO's/CLO/HO	
	Rating	Priority	Rating	Priority	Rating	Priority	Rating	Priority
Farmworkers	7.56	M-H	8.92	M	7.00	M	6.62	M
Welfare Groups	7.89	M	9.17	M	7.00	M	7.31	M
Child Abusers	6.56	M	3.42	L	4.71	M	7.00	M
Native Bands	7.25	M	8.67	M	5.24	M	6.62	M
Women	6.78	M	7.17	M	3.86	M	5.69	M
Battered Women	8.67	M	9.75	M	7.38	M	7.92	M
Injured Workers	6.78	M	8.83	M	5.95	M	6.92	M
Immigrants (including refugees)	6.44	M	8.83	M	6.81	M	6.00	M
Tenants	6.67	M	7.25	M	4.76	M	5.62	M
Urban Native People	8.00	M	8.83	M	5.24	M	6.23	M
Victims of Crime	7.00	M	7.08	M	3.86	M	6.08	M
Wife Abusers	5.22	M	4.17	L	4.50	M	6.62	M
Young Offenders	6.67	M	9.33	M	7.33	M	7.23	M
Prisoners/Ex-convicts	6.67	M	8.00	M	6.67	M	5.92	M
Environmental Groups	5.33	M	5.75	M	4.24	M	4.54	M
Seniors/Old Age Pensioners	7.22	M	8.17	M	6.33	M	6.77	M
Consumer Groups	4.56	M	6.50	M	4.86	M	5.38	M
Unemployed Action Groups	5.22	M	8.08	M	4.57	M	6.15	M
Physically Handicapped	6.89	M	8.92	M	5.90	M	6.31	M
Mentally Handicapped	6.44	M	9.17	M	5.90	M	6.69	M
Working Poor	6.44	M	8.42	M	5.75	M	6.08	M
Human Rights Groups	5.89	M	6.75	M	5.48	M	6.15	M
Disarmament Groups	4.44	M	4.42	L	2.65	M	3.92	M
Mental Patients	7.11	M	9.50	M	5.81	M	6.46	M
Anti-Pornography Group	3.89	L	5.50	M	2.10	L	3.69	L
Family Law Litigants	6.89	M	8.42	M	7.63	M	7.69	M
Non-Profit Societies (as a general class of organizations)	6.33	M	6.17	M	4.25	M	4.31	M
AVERAGE MEAN RATING	6.47		7.60		5.48		6.15	

2.3.1.5 Education and Legal Information Program

The Legal Service Society provides legal education and information about the law to the public at large. In general, it does so indirectly by giving support to intermediaries - that is, lay professionals and groups inside and outside the LSS structure. This support includes funding, training, provision of legal information guides and audio-visual materials, workshops and consultation services. The intermediaries in turn serve the general public or specific target groups in the community.

Based on suggestions from Head Office staff and a sample of local service office staff, a list of four intermediaries (teachers, community based groups, librarians, and office staff) was presented in the first round of the Delphi exercise. Delphi participants were asked to suggest intermediaries. Based on first round suggestions, the list was expanded to sixteen groups in the second round of the Delphi exercise.

In both rounds, Delphi participants were asked to rate the importance of providing support through the Legal Information Services Department to each intermediary group listed. Table 1-24 shows the average support rating of the four Delphi groups for the different intermediary groups. The overall results were, once again, very similar to patterns described for other Delphi questions. There was a tendency for Head Office staff to rate almost everything higher in importance and for Branch Office staff to rate almost everything lower in importance.

Of the four original intermediary groups, the highest priority rating was given to programs for CLO and Branch Office staff. This high priority was given by external participants, Branch Office and CLO participants. Head Office staff made no major priority distinctions. For all except Head Office staff, the lowest priority was given to librarians.

When considering the sixteen intermediaries, there was so much variation that only Branch Office staff could be said to have shown any clear priorities. They placed CLO and Branch Office staff as a group which should receive the most support and the medical profession as the group that should receive the least support.

TABLE 1-38

Importance of Supporting Education and Legal Information Programs to Intermediate Groups

SUPPORT GROUP	GROUP							
	EXTERNAL		HEAD OFFICE		BRANCH OFF.		CLO* /CLO/RO	
	Rating	Priority*	Rating	Priority	Rating	Priority	Rating	Priority
Teachers	6.67	M	7.83	M	6.86	M	7.23	M
Community Based Groups	8.78	M	9.25	M	7.38	M	7.77	M
Librarians	5.33	L	8.17	M	5.10	L	6.54	L
CLO & Regional Office Staff	8.78	M	9.75	M	8.33	M	8.46	M
College & Institute Instructors	5.56		6.67		4.81		6.23	
Indian Band Council	7.78		8.83		6.05		6.92	
Trade Unions	4.56		6.42		3.90		4.31	
Teachers of English as a Second Language	6.11		7.83		4.76		4.54	
Community Information Centres	6.78		7.83		6.81		6.77	
Police	6.56		6.73		3.95		5.54	
Native Courtworkers	8.56		9.17		7.67		7.42	
Court Services Personnel	7.33		7.08		5.71		7.08	
Professionals in Agencies Administering Social Benefits	6.67		6.83		4.81		6.31	
Medical Professionals and Paraprofessionals	5.89		6.08		3.71		4.38	
Community T.V./News Media/Publications	6.56		7.25		5.43		6.00	
Private Bar	5.33		6.25		4.24		5.00	
AVERAGE MEAN RATING	6.70		7.62		5.60		6.28	

* Priority analysis only performed for original four support groups.

2.3.1.6 Summary

Several interesting patterns can be seen from the ratings given by the participants. External participants, Head Office staff and CLO staff, on average, rated most services relatively highly. All services were considered important. In particular, Head Office staff made few distinctions between services. There was consensus across all groups that direct representation and advice and information services were extremely important. These high ratings matched the types of services actually provided through LSS. There was less agreement about the importance of the more proactive services such as community development, intervention and public legal education. The major dissenting voice was that of Branch Office staff who consistently gave non-client services a lower rating.

Head Office staff, CLO and CLO/AD staff and external participants generally followed a pattern consistent with a broad definition of legal aid. Branch Office staff seemed to follow a narrower definition. Except for direct representation and advice and information, there was such a lack of consensus about the relative importance of different services that developing formal goals for the LSS will most likely prove to be an arduous task. There is potential for goal conflict within the organization: the greatest potential conflict is between Head Office staff and Branch Office staff.

Among problem areas, the only consensus high priority area was child custody. As with types of services, the LSS could expect goal conflict between staff if budget allocations were made by problem area. Similarly, only one community group stood out for being given high priority by all participant groups. The only high priority community group was battered women.

For PLE, staff in offices ranked PLE activity for staff highest of the four major target groups (librarians, community based groups, teachers and office staff) and gave librarians the lowest priority. Head Office staff, once again, made no distinctions.

Coupled with the complex nature of the LSS are divergent staff views which should make charting a common course difficult. If the LSS engages in a goal setting exercise, which it should, it will be imperative that the Board engage Branch Office and CLO staff and Head Office staff in the process.

2.3.2 Future Directions: Private Bar Views of Restraint

A random sample of 300 members of the private bar of British Columbia was surveyed through a mailed questionnaire in order to ascertain private bar opinions on a variety of issues related to legal aid, including their views of the program cuts made by LSS in response to reduced funding. Sixty-one or 20% of the sampled lawyers returned the questionnaire. This response rate, while fairly normal for mailed questionnaires, seems low considering the publicity surrounding the cuts in legal aid coverage and the natural professional interest one would expect members of the provincial bar to have in legal aid issues. It appears that concern for legal aid issues did not, at the time of the questionnaire, run deep enough to produce a high response rate to a questionnaire designed to discover bar views. The bar, as individuals, appear to view LSS with some distance.

The results of the bar survey are probably biased toward the views of concerned private practioners. The results of the bar survey most likely reflect views the LSS would encounter if they were to suggest major changes of direction in the legal aid systems, that is, the views of those individual lawyers with some interest in legal aid, rather than the view of the provincial bar at large.

The respondents to the questionnaire (see Table 1-25) were slightly younger than the bar membership in general (average 6.3 years at the bar) and were likely to have had clinical experience in law school (75%). They were also more likely to have handled a legal aid case than the bar in general. Overall, about 20% of the private bar have handled at least one legal aid case, while about 70 - 75% of the responding lawyers had handled legal aid cases. The respondents, however, had varied practices: no one area of law dominated. When the responses to the questions were analyzed to see whether the lawyers' familiarity with legal aid or their income levels influenced their opinions, few significant differences were found. While the lawyers who answered the questionnaire probably disproportionately included those with some stake in legal aid, their views, as reflected in their answers, may not differ all that much from other lawyers.

Members of the private bar were asked their views about LSS restraint measures and what services they would like to see restored. The Bar survey was performed before the return to higher service levels mandated by Mountain,

TABLE 1-25

CHARACTERISTICS OF SURVEYED LAWYERS

Years at Bar	Average 6.3 yrs	Range 1 to 27 yrs			
Law School	UBC 71.2%	U Victoria 11.9%	Other 16.9 %		
Experience in Clinic as law student	YES 75.0%	NO 25.0%			
Articled with L.A. office	YES 5.2%	NO 86.2%	No, but would have 8.6%		
Experience with legal aid	NEVER	YES, but not this year	YES, less than 5 cases this year*	YES, more than 5 cases this year	
Family law referrals	26.7%	20%	26.7%	26.7%	
Criminal law referrals	31.7%	18.3%	10.0%	40.0%	
Type of Practice	Sole 26.2%	2-5 members 43.3%	6-10 members 16.4%	above 10 11.7%	Crown 1.7%
Areas of Law	Over 50% Family 18%	Over 50% Criminal 13%	Over 50% Civil Lit. 8.2%	Over 50% Real Estate 4.9%	
Attends Meetings of local bar	Regularly 18.0%	Occasionally 45.9%	Seldom 24.6%	Never 11.5%	
Location	Greater Vancouver 61%	Vancouver Island 23.7%	Other 15.9%		
Income	Under $20,000 13.8%	$20,000-$35,000 34.5%	$35,000-$50,000 27.6%	Over $50,000 24.1%	

* Survey in June, 1983. Case estimates for six month period.

supra. Table 1-26 contains a summary of their responses. Members of the private Bar indicated that returning to pre-restraint tariff levels (eliminating the 12½% tariff fee cut) was the most urgent priority. Over 60% felt it was urgent. An additional 23% felt the tariff should be returned to its pre-restraint level, but that its return was not urgent. On the other hand, the majority of lawyers felt that user fees should be kept at their present level or increased. Sixty-nine percent of surveyed lawyers felt that the LSS, not the referral lawyer, should collect the user fees.

Private bar views on tariff coverage reflect views of the differential importance of providing legal aid in different legal areas. Restoration of summary conviction coverage to include individuals who have a possible risk of imprisonment was considered urgent by 44% of the lawyers surveyed. Thirty percent thought it was urgent to re-establish family court coverage, while 23% thought it was urgently important to re-establish coverage for all divorces. Only 11% thought there was an urgent need to return to pre-restraint civil coverage. In fact, 11% thought coverage should be reduced further. Over sixty percent thought coverage should be restored in the criminal, divorce and family court areas either urgently or at some time.

Private bar views about financial eligibility standards reflect concern about the stricter standards. Only 13% of the lawyers surveyed found the post-restraint standards acceptable. The rest felt a flexible or more liberal fixed standard should be used. Over 40% felt a change in the restraint standards was urgent.

Private bar views of outreach programs during a restraint period were strongly in favour of cutting these services back more than client services. Sixty percent felt that PLE, Library Information Service and the Schools Program should be cut back more than client services. Only about 15% felt these programs should be increased during a period of restraint. The Board has generally followed a pattern of cutting back these Head Office programs at the same rate as other programs, that is, attempting to maintain a generalized, outreach component to services.

The lawyers surveyed supported outreach programs in a non-restraint period. About 80% of surveyed lawyers favoured LSS development and dissemination of public legal education materials; 75% favoured LSS training librarians and ensuring placement of law-related materials in

TABLE 1-26
Private Bar Views on Restraint Programming

Re-Establish Pre-Restraint Tariff Fee Levels	
Urgent	60.7% (37)
Return, but not urgent	23.0% (14)
Reduced level O.K.	1.6% (1)
Reduce further	13.1% (8)
No opinion	1.6% (1)
Eliminate User Fees	
Urgent	19.7% (12)
Return, but not urgent	18.0% (11)
Reduced level O.K., fees O.K.	29.5% (18)
Increase user fees	23.0% (14)
No Opinion	9.8% (6)
Re-Establish Divorce Coverage for all Divorces	
Urgent	23.0% (14)
Return, but not urgent	41.0% (25)
Reduced level O.K.	24.6% (15)
Reduce further	0.0% (0)
No Opinion	11.5% (7)
Re-Establish "Possible" for "Probable" Imprisonment Standard for Coverage	
Urgent	44.3% (27)
Return, but not urgent	21.3% (13)
Reduced level O.K.	18.0% (11)
Summary conviction coverage should be removed completely	8.2% (5)
No Opinion	8.2% (5)
Re-Establish Family Court Coverage to Pre-Cut Levels	
Urgent	31.1% (19)
Return, but not urgent	36.1% (22)
Reduced level O.K.	19.7% (12)
Reduce further	0.0% (0)
No Opinion	13.1% (8)
Re-Establish Civil Coverage to Pre-Cut Levels	
Urgent	11.5% (7)
Return, but not urgent	42.6% (26)
Reduced level O.K.	19.7% (12)
Civil non-family matters should not be covered at all	11.5% (7)
No Opinion	14.8% (9)
Financial Eligibility Standard Should be Returned	
Urgently, return to flexible standards	23.0% (14)
Urgently, return to more liberal fixed standard	19.7% (12)
Return to flexible standard, but not urgent	32.8% (20)
Return to liberal fixed standard, but not urgent	4.9% (13)
Present standards O.K.	13.1% (8)
No Opinion	6.6% (4)
In Times of Restraint PLE, LIS and Schools Programs Should Be	
Increased	14.8% (9)
Cut back less than client services	6.6% (4)
Cut back more than client services	60.7% (37)
No Opinion	3.3% (2)

libraries. The majority of lawyers surveyed also favoured LSS creating special projects to meet the legal needs of specific target groups such us Native Indians or farmworkers.

Overall, the views of the private bar, as reflected in this survey, support outreach programs, but in a time of restraint support their reduction in favour of saving client services.

Generally, views varied little between lawyers familiar with legal aid and those who said they were not familiar with legal aid. In one situation views did, however, vary. Those lawyers most familiar with legal aid saw the return to higher tariffs as more urgent. One hundred percent of those lawyers who classified themselves as very familiar with legal aid saw the return to higher fees as urgent. Only about half of those who said they were less familiar with legal aid saw the return of higher fees as urgent, while an additional 30% saw the return to higher fees as a non-urgent priority. Lawyers earning over $35,000 a year generally held the same views as those earning less than $35,000. The one difference was in views of the importance of re-establishing family court coverage. More lower income lawyers (46%) than higher income lawyers (17%) felt a return to higher coverage was urgent.

2.3.3 Future Directions: Staff Views of Restraint

Directors of offices were asked their views about the importance of re-establishing coverage in selected areas of law. The interviews took place in June, 1983, before the coverage reductions announced in August, 1983, and before the increases in the fall of 1983 following the Mountain decision. In most coverage areas there was a fair amount of agreement across office types about the urgency of re-establishing coverage (see Table 1-27). In particular, there was overwhelming agreement that it was urgent to re-establish family court coverage. Over 80% of the directors thought there was urgent need to change the eligibility standards. Similarly, there was overwhelming agreement that summary conviction coverage should be raised back to a "possible imprisonment" criterion from a "probable imprisonment" standard. This was not, however, seen as having the same urgency as restoration of family court coverage. For divorce matters, about 30% of the directors thought the reduced coverage was acceptable. The remainder thought it should be increased. About 60% either thought that user fees were at an acceptable level or should be raised.

TABLE 1-27

Staff and Private Bar Views of Restraint

ELIMINATE USER FEES	YES, URGENTLY	YES, BUT NOT URGENT	FEES O.K.	RAISE FEES	NO OPINION
Offices					
Branch	21% (3)	21% (4)	50% (7)	0% (0)	0% (0)
CLO's	25% (1)	25% (1)	50% (2)	0% (0)	0% (0)
NCLO's	25% (1)	0% (0)	25% (1)	0% (0)	50% (2)
CLO/AD's	50% (3)	33% (2)	17% (1)	0% (0)	0% (0)
	29% (8)	25% (7)	39% (11)	0% (0)	7% (2)
Private Bar	20%	18%	29%	23%	10%

FINANCIAL ELIGIBILITY STANDARDS	URGENTLY RETURN TO FLEXIBLE STANDARD	URGENTLY RETURN TO MORE LIBERAL FIXED STANDARD	RETURN TO FLEXIBLE STANDARD, BUT NOT URGENT	RETURN TO MORE LIBERAL FIXED STANDARD, NOT URGENT	CURRENT CRITERIA O.K.	NO OPINION
Offices						
Branch	57% (8)	21% (3)	21% (3)	0% (0)	0% (0)	0% (0)
CLO's	25% (1)	75% (3)	0% (0)	0% (0)	0% (0)	0% (0)
NCLO's	75% (3)	25% (1)	0% (0)	0% (0)	0% (0)	0% (0)
CLO/AD's	83% (5)	0% (0)	0% (0)	0% (0)	17% (1)	0% (0)
	61% (17)	25% (7)	11% (3)	0% (0)	3.6% (1)	0% (0)
Private Bar	23%	20%	33%	5%	13%	7%

RE-ESTABLISH DIVORCE COVERAGE TO PRE-CUT LEVELS	URGENT	RETURN, BUT NOT URGENT	REDUCED LEVEL O.K.	REDUCE FURTHER	NO OPINION
Offices					
Branch	14% (2)	57% (8)	29% (4)	0% (0)	0% (0)
CLO's	50% (2)	25% (1)	25% (1)	0% (0)	0% (0)
NCLO's	50% (2)	25% (1)	25% (1)	0% (0)	0% (0)
CLO/AD's	33% (2)	50% (3)	17% (1)	0% (0)	0% (0)
	29% (8)	43% (17)	29% (8)	0% (0)	0% (0)
Private Bar	23%	41%	25%	0%	11%

TABLE 1-27
(continued)

RE-ESTABLISH "POSSIBLE" FOR "PROBABLE" STANDARD FOR COVERAGE IN SUMMARY CONVICTION MATTERS	URGENT	RETURN, BUT NOT URGENT	REDUCED LEVEL O.K.	REDUCE FURTHER SUMMARY CONVICTION SHOULD NOT BE COVERED	NO OPINION
Offices					
Branch	57% (8)	43% (6)	0% (0)	0% (0)	0% (0)
CLO's	50% (2)	25% (1)	0% (0)	0% (0)	25% (1)
NCLO's	50% (2)	25% (1)	0% (0)	25% (1)	0% (0)
CLO/AD's	67% (4)	33% (2)	0% (0)	0% (0)	0% (0)
	57% (16)	36% (10)	0% (0)	4% (1)	4% (1)
Private Bar	44%	21%	18%	8%	8%

RE-ESTABLISH FAMILY COURT COVERAGE	URGENT	RETURN, BUT NOT URGENT	REDUCED LEVEL O.K.	REDUCE FURTHER	NO OPINION
Offices					
Branch	86% (12)	7% (1)	0% (0)	0% (0)	7% (1)
CLO's	100% (4)	0% (0)	0% (0)	0% (0)	0% (0)
NCLO's	100% (4)	0% (0)	0% (0)	0% (0)	0% (0)
CLO/AD's	100% (6)	0% (0)	0% (0)	0% (0)	0% (0)
	93% (26)	4% (1)	0% (0)	4% (1)	0% (0)
Private Bar	31%	36%	20%	0%	13%

The office directors' views were different in some respects from the views of the members of bar who were surveyed. Two areas of difference stand out. First, office directors saw the return of family court coverage as urgent (93%); only about 30% of surveyed bar members saw the return of coverage as urgent. In fact, 20% of private bar members felt the reduced levels were appropriate. Second, 86% of office directors saw the return to a more liberal or flexible eligibility test as urgent. Only 53% of surveyed private lawyers saw this change as urgent. The private bar members surveyed saw the re-establishment of the pre-restraint tariff levels as most important.

In making decisions about service priorities or the difficult decisions about where to cut services, the LSS, cannot assume that their staff's views or the views of CLO staff will be similar to the views of the private bar. There does not appear to be a strong community of interest, at least in setting priorities.

2.3.4 Summary

LSS, with its complex and decentralized organizational structure, is presented with a difficult situation when future directions are considered. The operating environment is anything but stable. Even the office structures are not stable. When the Legal Aid Society and the Legal Services Commission merged in 1979 there were two distinct organizational structures under one super-organization. Now the clear movement is towards a mixed model where offices deliver both informational services and direct client services; where both legal information consellors/paralegals and lawyers work in the same offices. As of December, 1983, there were twenty-four offices. Of these offices, 9 were offices with lawyers and no paralegals and 4 were offices with paralegals and no lawyers. Ten offices had both lawyers and paralegals.

Within the office types (Branch Offices, CLO's, NCLO's and CLO/AD's) there were great similarities in the orientation towards direct client services, though the actual types of services provided varied by type of office. All parts of the LSS organization, except Head Office of course, were, primarily, deliverers of direct client services. Head Office staff include both administrators and staff running central programs such as the Library Information Services program and the Schools program. While all local offices primarily delivered direct client services, there were differences in the philosophical orientations of staff in different types of office. Branch Office staff stood out as holding clearly different views from staff at Head Office and in CLO's, CLO/AD's, and NCLO's. Branch Office staff saw less utility in proactive outreach activities. Head Office staff were clearly oriented towards more proactive outreach activities. CLO staff views fell between Branch Office staff and Head Office staff. The future direction of LSS, in as much as it can control its future at all in a time of restraint, was seen differently by different parts of LSS. The LSS Board will have to make a decision at some point about the type of services the LSS provides. If the LSS Board is satisfied with limited PLE and outreach activities, then inaction on its part will generally produce a direct client services oriented organization. If the LSS has a commitment to indirect client services in local service offices, then it will have to develop policies that actually support (and reward) such activities at the local level. An outreach orientation will not develop in local service offices without structured encouragement. Passive support for outreach activities, such as project funding grants, has not proven to be sufficient to modify the direct client orientation common to most offices.

Within direct client services, the LSS also has to decide what problem areas should receive priority. Before restraint programming, the different types of offices provided different types of services. Branch Offices were primarily criminal tariff offices; CLO's primarily delivered civil non-family services; CLO/AD Offices delivered a more equal mix of criminal, family and civil non-family services. The type of office located in a community influenced the types of problems which were addressed in the community. The LSS Board will have to determine its level of committment to individuals with civil non-family problems. Offices with paralegals do more civil non-family work. If the LSS has a committment to civil non-family work, then it should consider more offices structured like CLO/AD offices with both lawyers and legal information counsellors/paralegals on staff. Aternatively, the Board could increase the amount of civil non-family work in Branch Offices by controlling staff lawyer work.

The LSS and its staff and funded offices do not deliver a uniform type of service. Organizational structures appear, at current resource levels, to play an important role in determining what services are delivered. Because of this, organizational decisions made by the LSS Board have far reaching implications for the type of legal services provided to residents of British Columbia.

CHAPTER 1

TECHNICAL NOTES

These technical notes contain means, standard deviations, 95% confidence intervals for Delphi questionnaire responses in Round II and the results of analysis of variance for each question type for each group of rates. The four groups participating in the exercise or listed below. The Delphi process, by its very nature of reflective rating and multiple ratings, produces observations which may not be independent.

Participant Groups:	Number of Participants, Round II
1. external participants	9
2. Head Office staff	12
3. Branch Office staff	21
4. CLO/CLO/AD staff.	13

The external participants were from a range of agencies dealing with the Legal Services Society. Those agencies were:

EXTERNAL DELPHI PARTICIPANTS (ROUND II)

Representatives from:

Elizabeth Fry Society
Burnaby Public Library
Office of the Ombudsman
John Howard Society of British Columbia
Corrections Branch, Ministry of the Attorney General
Alcohol and Drug Program
Justice Institute
Ministry of the Attorney General
SUCCESS

TABLE 1-28

TYPES OF SERVICES

EXTERNALS

ANALYSIS OF VARIANCE

SOURCE	D.F.	SUM OF SQUARES	MEAN SQUARES	F RATIO	F PROB.
Between Groups	6	73.78	12.30	2.97	0.01
Within Groups	56	231.78	4.14		
Total	62	305.56			

	Count	Mean	Standard Deviation	Standard Error	Minimum	Maximum	95 percent Conf. Int. for Mean	
Dir. Rep.	9	9.22	1.64	0.55	5	10	7.96	10.48
Adv. and Inf.	9	8.89	1.36	0.45	6	10	7.84	9.93
Com. Dev.	9	7.22	2.28	0.76	3	10	5.47	8.97
Intervention	9	5.78	2.39	0.80	3	9	3.94	7.61
Non-Rep. Adv.	9	7.00	2.18	0.73	3	10	5.32	8.68
PLE	9	7.33	2.12	0.71	3	10	5.70	8.96
Self-Help	9	7.44	2.07	0.69	3	10	5.85	9.03
TOTAL	63	7.56	2.22	0.28	3	10	7.00	8.11
Fixed Effects Model		2.03	0.26				7.04	8.07
Random Effects Model			0.44				6.47	8.64

Random Effects Model - Estimate of Between Component Variance 0.91

TABLE 1-29

TYPE OF SERVICE

HEAD OFFICE

ANALYSIS OF VARIANCE

SOURCE	D.F.	SUM OF SQUARES	MEAN SQUARES	F RATIO	F PROB.
Between Groups	6	15.67	2.61	1.05	0.40
Within Groups	77	191.00	2.48		
Total	83	206.67			

	Count	Mean	Standard Deviation	Standard Error	Minimum	Maximum	95 percent Conf. Int. for Mean	
Dir. Rep.	12	9.25	1.36	0.39	6	10	8.39	10.11
Adv. and Inf.	12	9.08	1.00	0.29	7	10	8.45	9.72
Com. Dev.	12	8.83	1.70	0.49	5	10	7.76	9.91
Intervention	12	7.91	2.11	0.51	4	10	6.58	9.26
Non-Rep. Adv.	12	8.33	1.56	0.45	6	10	7.34	9.32
PLE	12	8.83	1.85	0.53	5	10	7.66	10.01
Self-Help	12	8.42	1.16	0.34	6	10	7.68	9.16
TOTAL	84	8.67	1.58	0.17	4	10	8.32	9.01
Fixed Effects Model			1.58	0.17			8.32	9.01
Random Effects Model				0.18			8.24	9.10
Random Effects Model - Estimate of Between Component Variance					0.01			

TABLE 1-30

TYPE OF SERVICE

BRANCH OFFICE

ANALYSIS OF VARIANCE

SOURCE	D.F.	SUM OF SQUARES	MEAN SQUARES	F RATIO	F PROB.
Between Groups	6	399.70	66.62	12.77	0.00
Within Groups	137	714.62	5.22		
Total	143	1114.33			

	Count	Mean	Standard Deviation	Standard Error	Minimum	Maximum	95 percent Conf. Int. for Mean	
Dir. Rep.	21	9.43	1.36	0.30	5	10	8.81	10.05
Adv. and Inf.	21	8.19	1.72	0.38	5	10	7.41	8.97
Com. Dev.	21	4.81	2.38	0.52	1	9	3.73	5.90
Intervention	20	4.85	2.32	0.52	0	9	3.76	5.94
Non-Rep. Adv.	21	6.05	2.64	0.58	1	9	4.85	7.25
PLE	20	5.55	2.61	0.58	0	10	4.33	6.77
Self-Help	20	5.35	2.66	0.60	0	9	4.10	6.60
TOTAL	144	6.34	2.79	0.23	0	10	5.88	6.80
Fixed Effects Model			2.28	0.19			5.96	6.72
Random Effects Model				0.68			4.68	8.01

Random Effects Model - Estimate of Between Component Variance 2.99

TABLE 1-31

TYPE OF SERVICE

CLO - CLO/AD

ANALYSIS OF VARIANCE

SOURCE	D.F.	SUM OF SQUARES	MEAN SQUARES	F RATIO	F PROB.
Between Groups	6	44.13	7.36	2.06	0.07
Within Groups	84	300.31	3.58		
Total	90	344.44			

	Count	Mean	Standard Deviation	Standard Error	Minimum	Maximum	95 percent Conf. Int. for Mean	
Dir. Rep.	13	8.62	1.19	0.33	7	10	7.89	9.34
Adv. and Inf.	13	8.69	1.38	0.38	6	10	7.86	9.52
Com. Dev.	13	7.00	1.96	0.54	4	10	5.82	8.18
Intervention	13	7.23	2.01	0.56	4	10	6.02	8.44
Non-Rep. Adv.	13	7.69	1.60	0.44	5	10	6.72	8.66
PLE	13	7.62	2.26	0.63	3	10	6.25	8.98
Self-Help	13	6.77	2.49	0.69	2	10	5.27	8.27
TOTAL	91	7.66	1.96	0.21	2	10	7.25	8.07
Fixed Effects Model			1.89	0.20			7.27	8.05
Random Effects Model				0.28			6.96	8.36

Random Effects Model - Estimate of Between Component Variance 0.29

TABLE 1-32

AREAS OF LAW

EXTERNALS

ANALYSIS OF VARIANCE

SOURCE	D.F.	SUM OF SQUARES	MEAN SQUARES	F RATIO	F PROB.
Between Groups	12	389.44	32.45	5.54	0.00
Within Groups	104	609.33	5.86		
Total	116	998.77			

	Count	Mean	Standard Deviation	Standard Error	Minimum	Maximum	95 percent Conf. Int. for Mean	
Summary	9	8.78	1.48	0.49	6	10	7.64	9.92
Contested Divorces	9	8.56	1.42	0.47	6	10	7.46	9.65
Uncontested Div.	9	5.00	2.78	0.93	0	10	2.86	7.14
Custody Matters	9	9.22	1.09	0.36	7	10	8.38	10.06
Maintenance	9	8.56	1.67	0.56	6	10	7.27	9.84
Small Claims	9	5.44	2.96	0.99	1	10	3.17	7.72
Welfare	9	8.11	1.83	0.61	5	10	6.70	9.52
U.I.C.	9	7.78	2.05	0.68	5	10	6.20	9.35
Rentalsman	9	6.44	3.36	1.12	1	10	3.86	9.03
Prov. M.V.	9	4.44	2.88	0.96	1	10	2.23	6.66
ICBC	9	3.11	2.47	0.82	1	7	1.21	5.01
Immigration	9	7.44	2.88	0.96	1	10	5.23	9.66
Workers Comp.	9	6.78	3.15	1.05	1	10	4.35	9.20
TOTAL	117	6.90	2.93	0.27	0	10	6.36	7.43
Fixed Effects Model			2.42	0.22			6.45	7.34
Random Effects Model				0.53			5.75	8.04

Random Effects Model - Estimate of Between Component Variance 2.95

TABLE 1-33

AREAS OF LAW

HEAD OFFICE

ANALYSIS OF VARIANCE

SOURCE	D.F.	SUM OF SQUARES	MEAN SQUARES	F RATIO	F PROB.
Between Groups	12	261.82	21.82	5.89	0.00
Within Groups	129	477.67	3.70		
Total	141	739.49			

	Count	Mean	Standard Deviation	Standard Error	Minimum	Maximum	95 percent Conf. Int. for Mean	
Summary	10	8.40	1.17	0.37	6	10	7.56	9.24
Contested Divorces	11	8.64	1.36	0.41	7	10	7.72	9.55
Uncontested Div.	11	4.82	2.86	0.86	1	9	2.90	6.74
Custody Matters	11	9.18	1.08	0.33	7	10	8.46	9.91
Maintenance	11	7.73	1.85	0.56	4	10	6.49	8.97
Small Claims	11	5.45	2.34	0.71	1	9	3.88	7.03
Welfare	11	8.73	1.68	0.51	5	10	7.60	9.86
U.I.C.	11	8.45	1.86	0.56	5	10	7.20	9.71
Rentalsmen	11	7.64	1.80	0.54	5	10	6.42	8.85
Prov. M.V.	11	6.00	1.90	0.57	2	8	4.73	7.27
ICBC	11	6.18	2.32	0.70	2	9	4.63	7.74
Immigration	11	8.09	2.26	0.68	3	10	6.58	9.61
Workers Comp.	11	8.36	1.69	0.51	5	10	7.23	9.50
TOTAL	142	7.51	2.29	0.19	1	10	7.13	7.89
Fixed Effects Model			1.92	0.16			7.19	7.83
Random Effects Model				0.39			6.65	8.36

Random Effects Model - Estimate of Between Component Variance 1.66

TABLE 1-34

AREAS OF LAW

BRANCH OFFICE

ANALYSIS OF VARIANCE

SOURCE	D.F.	SUM OF SQUARES	MEAN SQUARES	F RATIO	F PROB.
Between Groups	12	1071.09	89.26	16.46	0.00
Within Groups	233	1263.15	5.42		
Total	245	2334.23			

	Count	Mean	Standard Deviation	Standard Error	Minimum	Maximum	95 percent Conf. Int. for Mean	
Summary	18	7.89	1.71	0.40	5	10	7.04	8.74
Contested Divorces	19	9.32	0.95	0.22	7	10	8.86	9.77
Uncontested Div.	19	4.11	2.77	0.63	0	10	2.77	5.44
Custody Matters	19	9.16	2.09	0.48	1	10	8.15	10.16
Maintenance	19	6.95	2.61	0.60	0	10	5.69	8.21
Small Claims	19	3.00	2.67	0.61	0	10	1.71	4.29
Welfare	19	6.63	2.48	0.57	3	10	5.44	7.83
U.I.C.	19	6.89	2.23	0.51	3	10	5.82	7.97
Rentalsman	19	4.95	2.68	0.61	0	10	3.66	6.24
Prov. M.V.	19	3.21	2.86	0.66	0	10	1.83	4.59
ICBC	19	4.58	2.14	0.49	0	10	3.55	5.61
Immigration	19	7.84	2.48	0.57	1	10	6.65	9.04
Workers Comp.	19	8.16	1.83	0.42	4	10	7.27	9.04
TOTAL	246	6.35	3.09	0.20	0	10	5.97	6.74
Fixed Effects Model			2.33	0.15			6.06	6.65
Random Effects Model				0.60			5.04	7.67

Random Effects Model - Estimate of Between Component Variance 4.43

TABLE 1-35

AREAS OF LAW

CLO/AD

ANALYSIS OF VARIANCE

SOURCE	D.F.	SUM OF SQUARES	MEAN SQUARES	F RATIO	F PROB.
Between Groups	12	388.88	32.41	8.83	0.00
Within Groups	142	521.05	3.67		
Total	154	909.94			

	Count	Mean	Standard Deviation	Standard Error	Minimum	Maximum	95 percent Conf. Int. for Mean	
Summary	12	7.17	1.70	0.49	5	10	6.09	8.24
Contested Divorces	12	8.25	2.18	0.63	4	10	6.87	9.63
Uncontested Div.	12	4.00	1.76	0.51	1	7	2.88	5.12
Custody Matters	12	8.92	1.00	0.29	7	10	8.28	9.55
Maintenance	12	7.42	1.68	0.48	5	10	6.35	8.48
Small Claims	12	4.75	1.86	0.54	1	7	3.57	5.93
Welfare	12	8.00	1.54	0.44	5	10	7.02	8.98
U.I.C.	12	7.83	1.47	0.42	5	10	6.90	8.77
Rentalsman	12	6.42	2.11	0.61	2	10	5.08	7.76
Prov. M.V.	12	4.17	2.21	0.64	1	8	2.76	5.57
ICBC	12	5.25	2.56	0.74	1	10	3.62	6.88
Immigration	11	7.18	2.68	0.81	2	10	5.38	8.98
Workers Comp.	12	7.92	1.56	0.45	5	10	6.92	8.91
TOTAL	155	6.71	2.43	0.20	1	10	6.32	7.10
Fixed Effects Model			1.92	0.15			6.41	7.01
Random Effects Model				0.46			5.71	7.71

Random Effects Model - Estimate of Between Component Variance 2.41

TABLE 1-36

COMMUNITY GROUPS

EXTERNALS

ANALYSIS OF VARIANCE

SOURCE	D.F.	SUM OF SQUARES	MEAN SQUARES	F RATIO	F PROB.
Between Groups	25	277.14	11.09	1.62	0.04
Within Groups	207	1413.94	6.83		
Total	232	1691.08			

	Count	Mean	Standard Deviation	Standard Error	Minimum	Maximum	95 percent Conf. Int. for Mean	
Welfare	9	7.89	1.97	0.66	5	10	6.38	9.40
Child Abusers	9	6.56	3.36	1.12	0	10	3.97	9.14
Native Bands	8	7.25	2.76	0.98	3	10	4.94	9.56
Women	9	6.78	2.77	0.92	2	10	4.65	8.91
Battered Women	9	8.67	1.66	0.55	5	10	7.39	9.94
Injured Workers	9	6.78	2.11	0.70	4	10	5.16	8.40
Immigrants	9	6.44	2.46	0.82	2	10	4.56	8.33
Tenants	9	6.67	2.50	0.83	3	10	4.75	8.59
Urban Native People	9	8.00	1.80	0.60	5	10	6.61	9.39
Victims of Crime	9	7.00	2.55	0.85	2	10	5.04	8.96
Wife Abusers	9	5.22	2.68	0.89	2	9	3.16	7.28
Young Offenders	9	6.67	2.92	0.97	2	10	4.43	8.91
Prisoners/Convicts	9	6.67	2.40	0.80	2	10	4.82	8.51
Envir. Gps.	9	5.33	2.87	0.96	1	10	3.13	7.54
Seniors	9	7.22	2.05	0.68	5	10	5.65	8.80
Consumer Gps.	9	4.56	2.70	0.90	1	9	2.48	6.63
Unemployed	9	5.22	2.86	0.95	2	10	3.02	7.42
Phys. Handicapped	9	6.89	2.15	0.72	4	10	5.24	8.54
Ment. Handicapped	9	6.44	2.60	0.87	2	10	4.44	8.45
Working Poor	9	6.44	2.24	0.75	2	10	4.72	8.17
Human Rights Gps.	9	5.89	2.71	0.90	2	10	3.80	7.97
Disarm. Gps.	9	4.44	3.71	1.24	0	10	1.59	7.30
Mental Patients	9	7.11	2.62	0.87	2	10	5.10	9.12
Anti-Porn. Gps.	9	3.89	2.76	0.92	1	10	1.77	6.01
Family Law Lit.	9	6.89	2.67	0.89	1	10	4.84	8.94
Non-Profit Society	9	6.33	3.08	1.03	1	10	3.96	8.70
TOTAL	233	6.43	2.70	0.18	0	10	6.08	6.78

TABLE 1-37

COMMUNITY GROUPS

HEAD OFFICE

ANALYSIS OF VARIANCE

SOURCE	D.F.	SUM OF SQUARES	MEAN SQUARES	F RATIO	F PROB.
Between Groups	25	928.53	37.14	10.03	0.00
Within Groups	286	1058.75	3.70		
Total	311	1987.28			

	Count	Mean	Standard Deviation	Standard Error	Minimum	Maximum	95 percent Conf. Int. for Mean	
Welfare	12	9.17	1.34	0.39	6	10	8.32	10.02
Child Abusers	12	3.42	2.47	0.71	0	8	1.85	4.98
Native Bands	12	8.67	1.92	0.56	4	10	7.45	9.89
Women	12	7.17	1.85	0.53	4	10	5.99	8.34
Battered Women	12	9.75	0.62	0.18	8	10	9.36	10.14
Injured Workers	12	8.83	1.11	0.32	7	10	8.13	9.54
Immigrants	12	8.83	1.80	0.52	5	10	7.69	9.98
Tenants	12	7.25	1.66	0.48	5	10	6.20	8.30
Urban Native People	12	8.83	1.85	0.53	4	10	7.66	10.01
Victims of Crime	12	7.08	1.78	0.51	4	10	5.95	8.22
Wife Abusers	12	4.17	3.16	0.91	0	10	2.16	6.17
Young Offenders	12	9.33	1.44	0.41	5	10	8.42	10.25
Prisoners/Convicts	12	8.00	2.26	0.65	4	10	6.57	9.43
Envir. Gps.	12	5.75	1.82	0.52	3	9	4.60	6.90
Seniors	12	8.17	1.64	0.47	5	10	7.12	9.21
Consumer Gps.	12	6.50	1.83	0.53	4	10	5.33	7.67
Unemployed	12	8.08	1.78	0.51	5	10	6.95	9.21
Phys. Handicapped	12	8.92	1.56	0.45	6	10	7.92	9.91
Ment. Handicapped	12	9.17	1.40	0.41	6	10	8.28	10.06
Working Poor	12	8.42	1.56	0.45	6	10	7.42	9.41
Human Rights Gps.	12	6.75	1.82	0.52	4	10	5.60	7.90
Disarm. Gps.	12	4.42	2.72	0.78	0	8	2.69	6.14
Mental Patients	12	9.50	1.00	0.29	7	10	8.86	10.14
Anti-Porn. Gps.	12	5.50	2.68	0.77	0	10	3.80	7.20
Family Law Lit.	12	8.42	2.31	0.67	2	10	6.95	9.89
Non-Profit Society	12	6.17	2.52	0.73	3	10	4.57	7.77
TOTAL	312	7.55	2.53	0.14	0	10	7.27	7.83

TABLE 1-38

COMMUNITY GROUPS

BRANCH OFFICES

ANALYSIS OF VARIANCE

SOURCE	D.F.	SUM OF SQUARES	MEAN SQUARES	F RATIO	F PROB.
Between Groups	25	1004.61	40.18	5.40	0.00
Within Groups	513	3816.89	7.44		
Total	538	4821.50			

	Count	Mean	Standard Deviation	Standard Error	Minimum	Maximum	95 percent Conf. Int. for Mean	
Welfare	21	7.00	2.14	0.47	1	10	6.02	7.98
Child Abusers	21	4.71	3.10	0.68	0	10	3.30	
Native Bands	21	5.24	3.06	0.67	0	10	3.84	6.63
Women	21	3.86	2.29	0.50	0	9	2.81	4.90
Battered Women	21	7.38	2.09	0.46	3	10	6.43	8.33
Injured Workers	21	5.95	2.71	0.59	0	10	4.71	7.19
Immigrants	21	6.81	2.68	0.58	0	10	5.59	8.03
Tenants	21	4.76	2.30	0.50	0	8	3.71	5.80
Urban Native People	21	5.24	3.08	0.67	0	10	3.84	6.64
Victims of Crime	21	3.86	2.46	0.54	0	9	2.74	4.97
Wife Abusers	20	4.50	3.07	0.69	0	10	3.06	5.94
Young Offenders	21	7.33	2.63	0.57	2	10	6.13	8.53
Prisoners/Convicts	21	6.67	2.67	0.58	2	10	5.45	7.88
Envir. Gps.	21	4.24	2.95	0.64	0	10	2.90	5.58
Seniors	21	6.33	2.56	0.56	0	10	5.17	7.50
Consumer Gps.	21	4.86	2.65	0.58	0	8	3.65	6.06
Unemployed	21	4.57	2.69	0.59	0	10	3.35	5.80
Phys. Handicapped	21	5.90	2.39	0.52	2	10	4.82	6.99
Ment. Handicapped	21	5.90	2.88	0.63	0	10	4.59	7.22
Working Poor	20	5.75	2.71	0.61	1	10	4.48	7.02
Human Rights Gps.	21	5.48	2.84	0.62	2	10	4.18	6.77
Disarm. Gps.	20	2.65	3.10	0.69	0	10	1.20	4.10
Mental Patients	21	5.81	3.34	0.73	0	10	4.29	7.33
Anti-Porn. Gps.	20	2.10	2.63	0.59	0	10	0.87	3.33
Family Law Lit.	19	7.63	2.69	0.62	2	10	6.33	8.93
Non-Profit Society	20	4.25	2.79	0.62	0	9	2.94	5.56
TOTAL	539	5.34	2.99	0.13	0	10	5.09	5.60

TABLE 1-39

COMMUNITY GROUPS

CLO - CLO/AD

ANALYSIS OF VARIANCE

SOURCE	D.F.	SUM OF SQUARES	MEAN SQUARES	F RATIO	F PROB.
Between Groups	25	373.53	14.94	2.43	0.00
Within Groups	312	1920.00	6.15		
Total	337	2293.53			

	Count	Mean	Standard Deviation	Standard Error	Minimum	Maximum	95 percent Conf. Int. for Mean	
Welfare	13	7.30	2.10	0.58	3	10	6.04	8.57
Child Abusers	13	7.00	3.21	0.89	1	10	5.06	8.94
Native Bands	13	6.62	2.60	0.72	2	10	5.04	8.19
Women	13	5.69	1.97	0.55	3	9	4.50	6.89
Battered Women	13	7.92	1.93	0.54	4	10	6.75	9.09
Injured Workers	13	6.92	1.93	0.54	3	10	5.75	8.09
Immigrants	13	6.00	3.03	0.84	1	10	4.17	7.83
Tenants	13	5.62	1.66	0.46	3	8	4.61	6.62
Urban Native People	13	6.23	2.62	0.73	2	10	4.65	7.81
Victims of Crime	13	6.08	2.29	0.64	2	10	4.69	7.46
Wife Abusers	13	6.62	3.10	0.86	1	10	4.74	8.49
Young Offenders	13	7.23	2.20	0.61	2	10	5.90	8.56
Prisoners/Convicts	13	5.92	2.53	0.70	2	9	4.39	7.45
Envir. Gps.	13	4.54	2.47	0.69	0	9	3.05	6.03
Seniors	13	6.77	2.39	0.66	2	10	5.33	8.21
Consumer Gps.	13	5.38	2.29	0.64	0	8	4.0	6.77
Unemployed	13	6.15	2.48	0.69	0	9	4.66	7.65
Phys. Handicapped	13	6.30	1.97	0.55	3	10	5.11	7.50
Ment. Handicapped	13	6.69	1.80	0.50	4	10	5.60	7.78
Working Poor	13	6.08	2.18	0.60	1	9	4.76	7.39
Human Rights Gps.	13	6.15	2.79	0.78	1	10	4.47	7.84
Disarm. Gps.	13	3.92	3.55	0.98	0	10	1.78	6.07
Mental Patients	13	6.46	2.22	0.62	4	10	5.12	7.80
Anti-Porn. Gps.	13	3.69	3.33	0.92	0	10	1.68	5.70
Family Law Lit.	13	7.69	1.75	0.49	5	10	6.63	8.75
Non-Profit Society	13	4.31	2.78	0.77	0	9	2.63	5.99
TOTAL	338	6.13	2.61	0.14	0	10	5.85	6.41

TABLE 1-40

LEGAL EDUCATION TARGETS

EXTERNALS

ANALYSIS OF VARIANCE

SOURCE	D.F.	SUM OF SQUARES	MEAN SQUARES	F RATIO	F PROB.
Between Groups	15	219.05	14.60	2.59	0.00
Within Groups	128	723.11	5.65		
Total	143	942.16			

	Count	Mean	Standard Deviation	Standard Error	Minimum	Maximum	95 percent Conf. Int. for Mean	
Teachers	9	6.67	1.87	0.62	4	10	5.23	8.10
Community	9	8.78	1.30	0.43	7	10	7.78	9.78
Librarians	9	5.33	2.29	0.76	2	9	3.57	7.09
Staff	9	8.78	1.99	0.66	5	10	7.25	10.30
	9	5.56	2.70	0.90	2	10	3.48	7.63
Band Councils	9	7.78	1.92	0.64	5	10	6.30	9.26
Unions	9	4.56	2.55	0.85	1	8	2.59	6.52
Teachers E.S.L.	9	6.11	2.85	0.95	2	10	3.92	8.30
Info. Centres	9	6.78	2.64	0.88	3	10	4.75	8.80
Police	9	6.56	2.55	0.85	2	10	4.59	8.52
Native Crt Workers	9	8.56	1.74	0.58	5	10	7.22	9.89
Court Service Pgr.	9	7.33	2.29	0.76	4	10	5.57	9.09
Social Agencies	9	6.67	1.73	0.58	4	10	5.34	8.00
Medical Prof.	9	5.89	2.20	0.73	3	10	4.19	7.58
Public Media	9	6.56	3.17	1.06	2	10	4.12	8.99
Private Bar	9	5.33	3.28	1.09	0	10	2.81	7.85
TOTAL	144	6.70	2.57	0.21	0	10	6.28	7.12
Fixed Effects Model			2.38	0.20			6.31	7.09
Random Effects Model				0.32			6.02	7.38

Random Effects Model - Estimate of between component variance 0.99

TABLE 1-41

LEGAL EDUCATION TARGETS

HEAD OFFICE

ANALYSIS OF VARIANCE

SOURCE	D.F.	SUM OF SQUARES	MEAN SQUARES	F RATIO	F PROB.
Between Groups	15	238.34	15.89	3.11	0.00
Within Groups	175	894.26	5.11		
Total	190	1132.61			

	Count	Mean	Standard Deviation	Standard Error	Minimum	Maximum	95 percent Conf. Int. for Mean	
Teachers	12	7.83	2.55	0.74	3	10	6.21	9.46
Community	12	9.25	1.86	0.54	4	10	8.07	10.43
Librarians	12	8.17	2.37	0.68	3	10	6.66	9.67
Staff	12	9.75	0.62	0.18	8	10	9.36	10.14
	12	6.67	2.74	0.79	2	10	4.92	8.41
Band Councils	12	8.83	2.21	0.64	4	10	7.43	10.24
Unions	12	6.42	3.15	0.91	1	10	4.42	8.42
Teachers E.S.L.	12	7.83	2.41	0.69	3	10	6.30	9.36
Info. Centres	12	7.83	2.12	0.61	5	10	6.48	9.18
Police	11	6.72	2.20	0.66	5	10	5.25	8.20
Native Crt Workers	12	9.17	1.59	0.46	5	10	8.16	10.17
Court Service Pgr.	12	7.08	2.11	0.61	5	10	5.74	8.42
Social Agencies	12	6.83	2.33	0.67	4	10	5.35	8.31
Medical Prof.	12	6.08	2.57	0.74	1	10	4.45	7.72
Public Media	12	7.25	2.30	0.66	4	10	5.79	8.71
Private Bar	12	6.25	2.01	0.58	4	10	4.98	7.52
TOTAL	191	7.63	2.44	0.18	1	10	7.30	7.98
Fixed Effects Model			2.26	0.16			7.30	7.95
Random Effects Model				0.29			7.01	8.24

Random Effects Model - Estimate of between component variance 0.90

TABLE 1-42

LEGAL EDUCATION TARGETS

BRANCH OFFICE

ANALYSIS OF VARIANCE

SOURCE	D.F.	SUM OF SQUARES	MEAN SQUARES	F RATIO	F PROB.
Between Groups	15	659.52	43.97	5.24	0.00
Within Groups	320	2685.43	8.39		
Total	335	3344.95			

	Count	Mean	Standard Deviation	Standard Error	Minimum	Maximum	95 percent Conf. Int. for Mean	
Teachers	21	6.86	2.78	0.61	0	10	5.59	8.12
Community	21	7.38	1.60	0.35	5	10	6.65	8.11
Librarians	21	5.10	2.90	0.63	0	10	3.78	6.41
Staff	21	8.33	2.67	0.58	0	10	7.11	9.55
	21	4.81	2.96	0.65	0	10	3.46	6.16
Band Councils	21	6.05	3.47	0.76	0	10	4.47	7.63
Unions	21	3.90	3.11	0.68	0	10	2.49	5.32
Teachers E.S.L.	21	4.76	2.61	0.57	0	9	3.58	5.95
Info. Centres	21	6.81	2.38	0.52	0	10	5.73	7.89
Police	21	3.95	3.25	0.71	0	10	2.47	5.43
Native Crt Workers	21	7.67	2.61	0.57	0	10	6.48	8.86
Court Service Pgr.	21	5.71	3.15	0.69	0	10	4.28	7.15
Social Agencies	21	4.81	2.93	0.64	0	10	3.48	6.14
Medical Prof.	21	3.71	2.63	0.57	0	8	2.52	4.91
Public Media	21	5.43	3.20	0.70	0	10	3.97	6.88
Private Bar	21	4.24	3.53	0.77	0	10	2.63	5.85
TOTAL	366	5.60	3.16	0.17	0	10	5.26	5.93
Fixed Effects Model			2.90	0.16			5.28	5.91
Random Effects Model				0.36			4.82	6.37

Random Effects Model - Estimate of between component variance 1.69

TABLE 1-43

LEGAL EDUCATION TARGETS

CLO - CLO/AD

ANALYSIS OF VARIANCE

SOURCE	D.F.	SUM OF SQUARES	MEAN SQUARES	F RATIO	F PROB.
Between Groups	15	301.77	20.12	2.97	0.00
Within Groups	191	937.53	4.91		
Total	206	1239.30			

	Count	Mean	Standard Deviation	Standard Error	Minimum	Maximum	95 percent Conf. Int. for Mean	
Teachers	13	7.23	2.05	0.57	3	10	5.99	8.47
Community	13	7.77	1.69	0.47	5	10	6.75	8.79
Librarians	13	6.54	2.26	0.63	2	10	5.17	7.90
Staff	13	8.46	2.40	0.67	1	10	7.01	9.91
	13	6.23	2.20	0.61	2	10	4.90	7.56
Band Councils	13	6.92	1.98	0.55	3	10	5.72	8.12
Unions	13	4.31	2.53	0.70	1	9	2.78	5.84
Teachers E.S.L.	13	4.54	1.80	0.50	2	8	3.45	5.63
Info. Centres	13	6.77	2.13	0.59	3	10	5.48	8.05
Police	13	5.54	2.57	0.71	1	10	3.99	7.09
Native Crt Workers	12	7.42	2.23	0.65	2	10	6.00	8.84
Court Service Pgr.	13	7.08	2.01	0.56	4	10	5.86	8.30
Social Agencies	13	6.31	2.46	0.68	2	10	4.82	7.80
Medical Prof.	13	4.38	1.76	0.48	1	7	3.32	5.45
Public Media	13	6.00	2.24	0.62	1	9	4.65	7.35
Private Bar	13	5.00	2.80	0.78	0	9	3.31	6.69
TOTAL	207	6.28	2.45	0.17	0	10	5.94	6.61
Fixed Effects Model			2.22	0.15			5.97	6.58
Random Effects Model				0.31			5.61	6.94

Random Effects Model - Estimate of between component variance 1.18

CHAPTER 2

ELIGIBILITY AND ACCESSIBILITY ANALYSES

1.0 INTRODUCTION

While not formally a part of the Legal Services Society Act or the federal-provincial agreement, the general goal of case oriented legal aid articulated by many LSS staff members is the equitable provision of quality legal services to individuals who otherwise could not afford them. In holding such a general goal, assumptions must be made about what services ought to be provided and who should receive them. From the fall of 1982 to the date of this report, the LSS operated in an unstable environment. The LSS had to make repeated decisions about what services to deliver or, more accurately, what services to eliminate. In such an operating environment it is difficult to step back and reflect on the broader questions of equity and quality. One of the purposes of this evaluation, however, was a reflective examination of the issues of equity and quality.

The examination of the issues of equity and quality in this evaluation involved an examination of how the LSS functioned prior to the introduction of restraint programs, in a period of greater stability. Some pre/post restraint comparisons were made, but most issues were explored in the pre-restraint world. The data gathering phase of the evaluation did not cover enough of the restraint period to permit a detailed analysis. This chapter describes the availability and accessibility of services prior to the introduction of restraint programming and speculates on the impact of restraint programming on the equity of service delivery. Chapter 3 explores issues of quality.

Equity, in its general rather than its legal meaning, refers to a quality of being fair. In an equitable legal aid delivery system all individuals who were eligible for a specific type of legal aid service would have an equal opportunity to receive the service. Access to service would not be affected by where, within the province, an eligible individual lived. Rules for determining eligibility would be applied in a consistent fashion to all applicants so that equal cases would be treated equally.

Obviously, a totally equitable system can exist only as an ideal, not as a reality. No legal aid system, constrained by real service delivery problems, finite funds, and human frailty can be perfectly equitable. The pre-restraint standards for legal aid plan eligibility in

British Columbia set general criteria that involved case-by-case judgments about the probability of conviction in criminal cases or the probability of serious consequences in family and other civil matters, and about the probability that denial of legal aid with the consequent result that the applicant would be required to pay his/her own legal fees would impair his/her ability to maintain a defined minimum living standard. Such a decision system inevitably required the determining officer to exercise discretion. When discretion may be exercised on a case-by-case basis, it is impossible to specify all the conditions and criteria under which a given individual might be ruled eligible or ineligible for legal aid services. Therefore, an absolute standard against which to test for equity in the operation of the British Columbia legal aid plan cannot be defined.

It is possible, though, to derive a softer standard of equity from the patterns of decisions made in a large number of cases by many different determining officers. While some cases and situations will always be unique, many, if not most, will fall into a few clear categories and have very clear facts. A clear-cut case might be that of an applicant without assets, living on social assistance, and charged with an indictable offence. Even in a system with case-by-case discretion in which it is impossible to define absolute standards against which to test for equitable decision-making, it is possible to ascertain patterns of decisions in similar cases and test those patterns against the soft-edged standard that similar cases ought to be treated similarly.

Equity, in this sense, can be used in two rather different fashions. First, it can be used as a goal against which to measure the performance of the organization. In this use, of course, some judgmental body must make normative decisions about the range of variation that is admissible in an equitable provision of services. Second, once normative decisions about the admissible range of equitable service have been made, the decision pattern model of equity can be used as a screening device to test the character of service delivery in different parts of the province.

The equity model can be used to identify groups or locales that are underserved relative to others, and to point out where the delivery system is working relatively poorly. Once underserved populations or areas are identified, mechanisms to improve service delivery and improve equity can be explored. At the same time that underserved areas or individuals are identified, better served areas or individuals can be identified. Organizational innovations in these areas or for these individuals can then be identified and used to improve service in other areas.

By definition, if there is any variation in how services are delivered there will be "underserved" groups. Serious investigations of equity issues are bound to find some lack of equality. The only way to ensure equality is to define the criteria for service narrowly and enforce those criteria rigidly, thereby eliminating variation in decision making. Unfortunately, if variation is eliminated then it is difficult for a system to grow or adapt to change. Managing a delivery system must involve balancing legitimate desires for equity with the need to maintain a robust, healthy organization that can adapt to change.

Equity is therefore an ideal, but a legitimate ideal. Equity has two obvious dimensions for legal aid: the equity of the application of rules for deciding who will receive services, that is, the eligibility rules; and the equity of the delivery system, that is, the accessibility of services to all individuals eligible for them. Eligibility and accessibility will be considered separately.

1.1 Eligibility Analysis

In order to receive legal aid representational services in British Columbia, an individual applicant must meet certain preconditions. During 1981-83, the rules used by the LSS to determine eligibility changed under the pressure of restraint, making it more difficult for applicants to qualify for legal aid and reducing the amount of discretion allowed at the local level in deciding who should receive services.

Eligibility has two dimensions: financial eligibility and problem eligibility or coverage. The areas of law covered and the reduction in coverage during restraint are described in Chapter One. Financial eligibility is the major consideration in this chapter.

The Legal Services Society Act of 1979 sets out a formal definition of financial eligibility: a person is eligible for legal aid if, for financial reasons, he would not otherwise receive legal services. The federal-provincial agreement is more specific and requires that:

> ...in (determining financial eligibility the provincial agency) shall apply flexible rules that take into account whether the applicant can retain counsel at his own expense without him or his dependents (if any) suffering undue financial hardships such as incurring heavy indebtedness or being required to dispose of modest necessary assets.

The LSS reconciled these two requirements, until restraint programming began, by using the following general financial test:

> A person qualifies for legal aid when requiring him or her to pay legal fees would impair his or her ability to furnish himself or herself and his or her family with the essentials necessary to keep them decently fed, clothed, sheltered, and living together as a family. [Legal Services Society, Policies and Procedures Handbook 5-1 (Sept. 22, 1982).]

An individual was also eligible, even if financially ineligible, if legal services were available from no other source; and, the individual agreed to make financial contributions; and, met a series of specific requirements relating to specific group, location or problem types.

The LSS financial eligibility criteria were interpreted locally and based on information about income, food and shelter costs, and assets as well as local conditions.

Under restraint programming the LSS adopted relatively fixed financial eligibility standards, though consideration of assets such as cash in a bank or equity in a family home was left to the interviewer. The offices were given a guide specifying maximum income limits for legal aid eligibility. The income limits varied by the size of the community where the applicant lived and by the size of the applicants family. The income limits were tied to poverty levels published by the National Council on Welfare. Exceptions could be made by documenting the reasons in a memorandum and copying the memorandum to Head Office.

Under the pre-restraint rules there was the possibility that individuals in similar financial situations might be accepted at one office and rejected at another. The exact criteria for acceptance - how to weigh income and assets against expenses and liabilities were not spelled out. On the other hand, discretion at the individual level meant that criteria could be modified to meet local conditions or individual circumstances. Under the restraint rules there was a two-staged decision calculus: first, an applicant had to have an income below a specified level; second, those who met the income test could still be rejected if they had disposable assets. The criteria for the first part of the test were spelled out. The rules for rejection based on assets were described generally, but local discretion still remained.

The question of whether or not the financial eligibility criteria were equitable before restraint and after restraint programming began has to be answered at two levels. At a fundamental level the criteria are equitable if they are consistently applied. At another level, the criteria are equitable if they include what should be included to make a fair decision. Both the pre-restraint and restraint sets of criteria may be equitable under the first usage of the term equitable. Both sets cannot be equitable under the second use of the term. In this evaluation only comparative equity was explored. The evaluation examined whether eligibility rules were consistently applied, not whether the eligibility rules were normatively acceptable.

Testing for comparative equity in eligibility criteria can only be done generally. By identifying major components of individuals' financial situations, such as income, assets and expenses, it is possible to see whether accepted and rejected applicants are similar or dissimilar. This is a general test, since other factors affecting eligibility, which form the core of a discretionary decision system, cannot be considered. Accepted and rejected applicant profiles were generated for the period before restraint programming was introduced and for a period after the initial restraint measures were introduced (October 1, 1982).

1.1.1 Provincial Applicant Profiles: Before Restraint

Profiles of accepted and rejected applicants were generated for criminal tariff applicants, family tariff applicants and civil non-tariff (pro bono and staff handled cases) applicants. Profiles were generated for a 10% sample of all clients for the twelve-month period preceding the October 1, 1982 introduction to restraint programming. Table 2-1(a) contains the provincial level profile information. The statistical analysis of these profiles is presented in the technical notes at the end of this chapter. In the body of the report, general non-statistical statements are made. The numbers in the tables are based on sample data. Since a 10% sample was used, the averages or proportions in the tables may not be statistically distinguishable even if the numbers are different. Only when there is a large difference relative to the overall variation should the differences be considered more than sampling variation.

There were several statistically significant differences in the client profiles. The differences were:

- Clients varied in age with criminal tariff clients being the youngest and civil non-family clients being the oldest.
- Criminal legal aid plan clients were less well educated, less likely to be married (or in a common law relationship) and more likely to be male.
- Family tariff clients were more likely to be female.
- Civil non-family (pro bono and staff lawyer handled) clients were about equally divided between male and female.
- Criminal legal aid plan clients reported lower income, lower expenses, and fewer assets than clients with family or civil non-family problems. This pattern was tied, in part, to the high proportion of criminal tariff clients who were single.
- Across all problem categories (criminal, family, civil non-family) the average reported expenses exceeded the average reported income.

Legal aid plan clients and pro bono or staff lawyer clients were, not surprisingly, poor and poorly educated with the poorest and most poorly educated clients being criminal tariff clients.

The figures in Table 2-1(a) are averages or proportions. The range of reported incomes, however, was not great. (The technical notes at the end of the chapter report the standard deviations around the average or mean values.) There was a large amount of variation in reported assets, reflecting, in part, the discretionary powers of local offices to accept individuals with assets. The most common assets were interest in a family home or an automobile. Differential home ownership and automobile ownership patterns across the province as well as discretionary powers in weighing the importance of assets in eligibility decisions produced a varied provincial pattern.

The profiles just described were developed by legal problem and included individuals who were single and who were married with dependents. Financial eligibility criteria varied with size of family. Table 2-1(b) contains income profiles for accepted applicants broken down by marital status and number of dependents. As can be seen from the table, average incomes increased as the number of dependents increased, but in some ways applicants with the larger families were poorer than applicants with no family or with small families. The average income for a criminal tariff client who was single was $470 a month. Criminal tariff clients with five dependents had average incomes of $845, less than twice the average for clients with no dependents. Most clients were single and had either no dependents or only one dependent. (Around 60% had no dependents; another 20% had one dependent.) Consequently, as can be seen in Table 2-1(a), the average incomes across problem areas were low.

Rejected applicant profiles showed a pattern slightly different from and more complex than client profiles (see Table 2-2). The rejected applicant profiles were created from files of individuals who were rejected for income reasons and rejected for problem coverage reasons (i.e., legal problem not covered under the tariff or under civil non-family coverage rules, that is, legal matters where there was no reasonable cause of action or where there would be minimal benefit to the client if the case were won).

Some patterns for rejected applicants were similar to those found for accepted applicants:

- Rejected criminal legal aid plan applicants were younger than rejected family or civil non-family applicants.

- Rejected criminal legal aid plan applicants were less well educated, generally less likely to be married (or in a common law relationship) and generally more likely to be male than family or civil non-family rejected applicants.

TABLE 2-1(a)

CLIENT PROFILES - YEAR PRIOR TO RESTRAINT

PROFILE CHARACTERISTICS	PROBLEM AREA		
	CRIMINAL	FAMILY*	CIVIL NON-FAMILY
Average Age	26.5 yrs	32.3 yrs	39.6 yrs
Education - % less than grade 10	70.3%	52.5%	51.9%
Marital Status - % married	24.1%	37.0%	58.8%
Average Monthly income (family)	$500	$670	$754
Average Monthly expenses (family)	$519	$789	$783
Total Assets - (family)	$818	$3,935	$5,307

* Includes applicants for coverage under the family tariff and the Polglase tariff described in Chapter 1.

TABLE 2-1(b)

CLIENT PROFILES - INCOME BY FAMILY SIZE

DEPENDENTS*	CRIMINAL		FAMILY		CIVIL		1982 RESTRAINT VANCOUVER LEVELS
	SINGLE**	MARRIED***	SINGLE	MARRIED	SINGLE	MARRIED	
None	$471	$559****	$629	$684	$602	$997	$660
1	611	663	752	746	693	1065	900
2	705	714	842	816	866	1014	1150
3	791	806	859	1019	893	960	1320
4	755	842	973	1077	977	1034	1500
5	845	850	1282	1184	1019	1277	1630

* Spouse included as dependent only if financially dependent on applicant.

** Single category includes single, separated and widowed persons.

*** Married category includes common law relationships.

**** Married with no dependents includes applicants where spouse is not financially dependent and there are no children.

These patterns held generally for the profiles of individuals rejected for income as well as coverage reasons. Reported income and asset patterns, as one would expect, were different for the profiles of applicants rejected for income reasons and applicants rejected for coverage reasons.

- The average reported income, expenses and assets of those rejected for coverage (not income reasons) was lower than those rejected for income and not coverage reasons.
- The average reported income for individuals rejected for coverage reasons did not vary in a statistically significant way from those accepted.
- The average reported expenses by problem area for those rejected for coverage reasons did not vary in a statistically significant way from the accepted applicant profiles.
- Generally, there was no difference in assets between accepted and rejected for coverage profiles with one exception: the average assets of individuals rejected for civil coverage reasons were lower than those accepted. (When profiles were run on a 20% sample, since civil volumes are low, the difference was not found.)

It should be noted in looking at the civil non-family profile that the rules for coverage in civil non-family matters are different from coverage rules in criminal or family matters. The person reviewing the application must make a dual decision: does the applicant have reasonable cause of action? And, will the action have a real benefit to the applicant? These are legal and social judgments.

The profiles of accepted and rejected applicants reflect what would be expected if eligibility rules were being applied in a fairly consistent manner. Client characteristics varied by problem area (criminal, family and civil non-family), but the variation seemed reasonable given what is known about the problem areas. For example, clients handled under the criminal tariff program were younger and more often male and single than clients handled under the family tariff program; but those accused of criminal offences tended to be younger, and more often male and single.

TABLE 2-2

REJECTED APPLICANT PROFILES: YEAR PRIOR TO RESTRAINT

	PROBLEM AREA					
	CRIMINAL		FAMILY		CIVIL NON-FAMILY	
Profile Characteristics	Rejected Income	Rejected Coverage	Rejected Income	Rejected Coverage	Rejected Income	Rejected Coverage
Average Age	27.0 yrs	26.3 yrs	34.6 yrs	31.7 yrs	38.3 yrs	34.0 yrs
Education - % less than grade 10	51.3%	57.9%	35.7%	37.8%	34.4%	41.6%
Marital Status - % married	25.0%	19.5%	50.8%	35.6%	40.3%	29.2%
Sex - % male	87.7%	74.8%	44.8%	37.3%	68.2%	59.1%
Monthly Income	$1,003	$600	$1,194	$673	$959	$669
Monthly Expenses	$758	$526	$1,092	$761	$964	$686
Total Assets	$2,701	$900	$10,044	$5,096	$8,485	$1,008

The economic profiles varied in a predictable manner. Clients were poorer than applicants rejected for income reasons. The profiles of applicants rejected for coverage were similar to accepted applicant profiles. At a provincial level, before restraint programming was introduced, the application of eligibility criteria appeared to be reasonably equitable.

1.1.1.1 Administrative Controls

Some comments should be made about the administrative controls over eligibility decisions. While decisions are made at the office level, one consequence of the decentralized structure of the LSS, there are two central administrative controls over the local decisions. First, and probably most important, the LSS has developed a new computerized information system. Information about all applicants and their finances is entered into the system. The LSS has the potential to create applicant profiles for the local offices. Using these profiles the LSS Head Office should be able to identify if any office begins to deviate from the other offices in how eligibility decisions are made. With the new information system, there should be no major problems with general levels of equity in eligibility decisions.

In addition to the information system, the LSS has an appeal procedure. If an applicant is rejected, he or she has the right to appeal that decision. In the office survey completed in the summer of 1983, only four of fourteen Branch Offices that responded to a question about appeals procedures said they notified rejected applicants of their right to appeal. Of the four that notified rejected applicants of their right, only two did so in writing. Three of five CLO/AD Offices that responded indicated they notified rejected applicants of their right to appeal. Two did so in writing. CLO's and NCLO's followed a variety of procedures when they handled applications which were sent to other offices for approval. (The CLO's and three of the four NCLO's could not approve tariff applications, but had to send them to an office where tariff decisions could be made.) The appeals procedure was not generally handled formally by the offices. Most of these offices reported mentioning an appeals procedure to an applicant only if they were having difficulty with the applicant or if they were asked by the applicant about an appeal.

This lack of formal dissemination of appeal information was reflected in information collected from a survey of rejected applicants. Only 15% of rejected criminal tariff applicants, 14% of rejected civil non-family applicants and 3% of rejected family tariff applicants reported even knowing that appeals were possible.

In September, 1983, the Policies and Procedures Handbook which is supposed to guide procedures in Branch and other offices was updated. Appeals procedures were formalized. Appeals procedures are now supposed to be prominently displayed in the reception area; the right to appeal is supposed to be included in rejection letters; and individuals are supposed to be encouraged to appeal if they are dissatisfied. If these procedures have actually been implemented, then the LSS should have a uniformly accessible appeals procedure for applicants and would have means to review office to office variation in non-income decision criteria.

While information was not available to the evaluators about whether the new appeals procedures had actually been implemented, information was available about the number of appeals taken. For the period July 1, 1983, to February 29, 1984, a period which included two months before the new procedures were sent to offices, there were 97 appeals to Head Office. In the same time span there were around 12,000 applictions. Few persons appealed to Head Office. Appeals may have been resolved at the local level or the less flexible restraint financial eligibility rules may discourage applicants from appealing. Of the 97 appeals, 11 resulted in the applicant receiving services. The remainder were denied services on appeal.

1.1.2 Provincial Applicant Profiles - After Restraint

With the introduction of restraint measures, financial eligibility criteria were changed making it more difficult to qualify financially. Applicant profiles were created from applicant data for the three-month period immediately after restraint measures were introduced on October 1, 1983. Only three month's worth of data were available because the LSS switched to a new computer system early in 1984. The profiles had to be generated on the discontinued Legal Aid Information System. Profiles also had to be created without information from the Vancouver Branch Office which served as a test site for the new information system during the three-month period.

There were few differences between the accepted and rejected applicants before and after restraint. The average incomes and expenses of accepted applicants were quite similar both before restraint and during the first three-month period after restraint. Average incomes were well below the maximum acceptable level for the post restraint period both before and after October 1, 1982. Average assets did vary. Average assets for individuals applying for family tariff coverage who were rejected for financial reasons went up after restraint. Average assets for criminal tariff applicants rejected for financial reasons stayed about the same. Rejected civil applicant assets went down.

The post restraint period used to generate the profiles was limited and consequently the sample size used was relatively small. With a larger number of applications differences might be found. With the more limited sample it did not appear that the LSS was rejecting many individuals for economic reasons who would have been accepted before restraint. For example, before restraint accepted applicants under the criminal tariff program had average net incomes of $500 per month ($553 if applicants through the Vancouver Branch Office were excluded). In the three-month period after stricter financial eligibility standards were set, the average net income was $520 per month, excluding Vancouver which was on the new information system. Applicants rejected under the criminal tariff plan for financial reasons before restraint had an average net income per month of $1067. After restraint measures were introduced the average net income per month was $1048, a negligible difference.

1.1.3 Regional Applicant Profiles

The applicant profiles generated at a provincial level showed a general pattern of reasonable application of financial eligibility rules, though only a non-specific test was possible. Provincial patterns alone cannot answer all equity questions. It is necessary to see whether there was variation in the application of eligibility procedures in different parts of the province. It is also important to discover whether local offices were serving clients with similar socio-demographic characteristics. Part of the argument for decentralizing a service delivery system is that decentralization permits adjustments to local conditions.

1.1.3.1 Regional Definitions

A province can be geographically subdivided many ways. To look at applicant profiles, and to perform other regional analyses, the province was divided into service areas. Service areas were created at several levels of aggregation. Using several levels of aggregation permitted both highly specific and more general analyses.

The units, from smallest to largest are:

- Office Service Areas (OSA);
- Administrative Service Areas (ASA);
- Regional Services Areas (REG).

The definition of service areas is a complex process and is dependent on the reasons for creating them and on the availability and compatibility of data. For this evaluation information was gathered from diverse sources based on varying geographic units. The LSS did not have any form of administrative service area. Offices generally served the communities around them. Either the local offices or Head Office attempted to identify unserved areas and to use local circuits to bring lawyers to the people in them, but the province was not divided into formal administrative regions for which particular offices had overall servicing responsibility. Statistics released by government departments, were organized by region, but definitions of provincial regions tended to vary. For example, while local information was available, the British Columbia Regional Index divided the province into nine regions, the Ministry of Human Resources used twenty regions, the B.C. Police Commission used six, Census Canada divided British Columbia into twenty-seven regions, and the provincial courts used five administrative regions. In order to use data from such diverse sources, a common geographic denominator smaller than a "region" was needed.

With this consideration in mind, the geographic unit chosen as most suitable for this evaluation was the census subdivision defined by Census Canada. Census Canada divides British Columbia into 269 subdivisions. Every incorporated municipality in the province forms a subdivision, as do Indian reservations inside incorporated municipalities. The residual areas of the province, that is, areas not contained within an incorporated municipality or an Indian reserve within a municipality, are subdivided according to natural geographic boundaries except for Native Indian reservations outside of incorporated municipalities which are separate subdivisions. Consequently, any data can be made compatible if it can be collected at the municipal or subdivision level. Census subdivisions were used as the basic building blocks to construct the three levels of legal aid service areas.

Census subdivisions were used for several reasons. A large amount of detailed socio-demographic data was available from the census. Using these basic data, it was possible to cluster census subdivisions together to form larger units compatible with other sources of data. It was also possible to cluster census subdivisions into areas which were consistent with client flows. It should be emphasized that the units used in the analysis were not extant LSS administrative regions. They represent natural units created by the decisions clients made in choosing an office from which to seek legal aid services. The LSS had no administrative regions that were responsible for specific geographic areas.

Level 1 - Office Service Areas (OSA) - Theoretically, legal services should be accessible to every person in the province. In many offices a substantial number of clients came from outside the immediate community containing the office. Interviews with office staff and examination of the LSS records were used to determine the volume and direction of client flows to each office. Office Service Areas were defined by clustering those census subdivisions which had similar client travel patterns.

Forty-five Office Service Areas were defined by use of the following guidelines:

1. Census subdivisions with Branch Offices, Community Law Offices, Native Community Law Offices, Area Directors or Community Law Office/Area Directors formed the core of these service areas.

2. Surrounding subdivisions were assigned to the office service cores on the basis of geographic proximity and client flows. Client flows were determined by analysing the computerized records of Branch Offices and through interviews with office staff. The client's home community was recorded on the application forms for legal aid representation services, making it possible to determine how far clients travelled to obtain legal assistance. Each census subdivision in British Columbia was assigned to that service core to which the majority of clients went for legal assistance.

3. Areas served by a circuit formed separate office service areas if they were geographically separated from the core office.

Level 2 - Administrative Service Areas (ASA) - Office Service Areas were clustered into 28 higher order administrative service areas. The clustering was based on information provided by Legal Services Society Head Office staff and consolidated the OSA's into units which made sense conceptually, for administrative purposes.

Level 3 - Regional Service Areas (REG) - Administrative Service Areas were clustered into ten higher order Regional Service Areas. The following guidelines were used to define the ten Regions:

1. Geographic proximity of neighbouring Administrative Service Areas.

2. Geographic isolation between neighbouring Administrative Service Areas, taking into account,

    - separation by natural barriers (e.g., mountain ranges or bodies of water); and,
    - separation caused by lack of transportation routes (e.g., no connecting highways).

As with Administrative Service Areas, information provided by Head Office staff was used to form the Regional Service Areas.

The general purpose for analyzing the data at three levels of aggregation was to provide both a detailed and a general analytic base for studying legal aid in the province. Office Service Areas, developed from client flow data, provided the primary analytic unit used in the regional service analysis described later in this chapter. These areas were the primary areal units used in the service utilization analysis in this evaluation. The Administrative Service Areas and Regional Service Areas provided geographic bases for looking at general patterns in the province and were used as the geographic bases for analyzing client profile information.

Table 2-3 contains a list of the Regions, Administrative Service Areas and Office Service Areas used in the evaluation.

1.1.3.2 Regional Criminal Legal Aid Plan Client Profiles

Regional profiles of criminal legal aid plan clients were created (see Table 2-4). The profiles were based on data for the 12 month period proceeding the introduction of restraint programs. There was little variation in the average age of clients. In all regions the average age was near the provincial average of 29.8 years. There was more variation in educational levels. Criminal legal aid clients in Greater Vancouver had the highest educational levels, but even there 67.5% had not completed high school. In the Cariboo 86.6% of criminal legal aid clients had not completed high school. Similarly, marital status patterns

TABLE 2-3

REGIONAL BREAKDOWN

REGION	ADMINISTRATIVE SERVICE AREA	OFFICE SERVICE AREA
EAST KOOTENAY	Cranbrook	Cranbrook (BO)*
		Golden (AD)
CENTRAL KOOTENAY	Nelson	Nelson, (BO)
		Kaslo (AD)
		Trail (AD)
		Nakusp (AD)
OKANAGAN	Vernon	Revelstoke (AD)
		Salmon Arm (AD)
		Vernon (BO)
	Kelowna	Kelowna (BO)
	Penticton	Penticton (CLO)
KAMLOOPS INTERIOR	Kamloops	Kamloops (CLO/AD)
		Lillooet (AD)
	Merritt	Merritt (NCLO)
GREATER VANCOUVER	Abbotsford	Abbotsford (CLO/AD)
	Burnaby	Burnaby (BO)
	Chilliwack	Chilliwack (BO)
	New Westminster	Delta (AD)
		Richmond (AD)
		New Westminster (CLO)
	Powell River	Gibsons (AD)
		Powell River (CLO/AD)
	Surrey	Langley (BO)***
		Surrey (BO)
	Maple Ridge	Maple Ridge (CLO)*
	Vancouver	North Vancouver (AD)
		Vancouver (BO)
		Squamish (AD)
VANCOUVER ISLAND	Campbell River	Campbell River (BO)
	Nanaimo	Ladysmith (AD)
		Port Alberni (C)
		Nanaimo (BO, CLO)**
	Victoria	Victoria (CLO/AD)
CENTRAL INTERIOR	Hazelton	New Hazelton (NCLO)
	Prince George	Prince George (BO)
		Mackenzie (AD)
	Smithers	Smithers (CLO/AD)*
	Burns Lake	Burns Lake (NCLO)

TABLE 2-3
REGIONAL BREAKDOWN
(Continued)

REGION	ADMINISTRATIVE SERVICE AREA	OFFICE SERVICE AREA	
NORTHERN	Dawson Creek	Dawson Creek	(BO)
		Chetwynd	(AD)
		Dease Lake	(C)
		& Cassiar	(C)
		Fort Nelson	(AD)
	Fort St. John	Fort St. John	(BO)
NORTH WEST COAST	Queen Charlottes	Masset & Skidegate,	(NCLO)
	Prince Rupert	Prince Rupert	(BO)
		Terrace	(AD)
		Bella Bella	(C)
CARIBOO	Williams Lake, Quesnel	Williams Lake,	(BO)
		Quesnel	(CLO/AD)

BO - Branch Office; CLO - Community Law Office; NCLO - Native Community Law Office;
AD - Area Director; C - served by a circuit; CLO/AD - Community Law Office/Area Director.

* Closure announced August 31, 1983

** Merger announced August 31, 1983

*** Langley was a special paralegal project with Area Director status. For some purposes LSS treated it as a Branch Office. For some purposes it was treated as an Area Director. For still other purposes, the Langley office most closely resembled a CLO.

varied between regions from a low of 22% married or living in a common law relationship in the North West Coast, the Central Kootenay and Okanagan Regions, to 33% in the Northern Region.

The economic income profile showed some variability, particularly in average assets. Average assets ranged from $548 in the Northern Region to $3843 in the East Kootenay Region.

The differences between criminal legal aid clients were more evident when the Administrative Service Area profiles were examined (Table 2-5). Only 18% of Penticton and Merritt ASA clients were married or living in a common law relationship. In Merritt the average income of clients was only $414 per month. In Penticton the average was $514. Thirty-seven percent of the clients from the Fort St. John ASA were married, the highest proportion for the province; the average income for these clients was $617. The highest average income was in the Cranbrook area and this was only $632 per month.

While there was some variation in the average income of criminal tariff clients, no average income was very high. There was much more variation in average assets. Across the regions average assets ranged from over $3,800 in the East Kootenay Region to under $550 in the Northern Region. At the ASA level, average assets ranged from $314 in Vancouver to over $3,800 in Cranbrook, over $3,400 in Nelson and over $3,200 in Cambell River. The decision how to weigh assets in determining financial eligibility is discretionary at the local level. The profiles showed the trace of this discretion. The typical major asset reported by criminal legal aid tariff applicants was an automobile or truck. Clearly, in some areas, applicants were less likely to have cars or if they had cars, it was less likely that a car would be considered essential and therefore an exempt asset. In Vancouver the average asset value was only about $400. Automobiles are less frequent and less essential in a city where public transit exists. In areas without public transit a car or truck might be considered a necessity, not a disposable asset.

Overall, the profiles of criminal legal aid plan clients across the Regions and Administrative Service Areas showed more similarity than dissimilarity on broad socio-economic characteristics. Criminal legal aid plan clients, as one would expect, were typically poor, relatively young, poorly educated and single.

TABLE 2-4

REGIONS
ACCEPTED APPLICANT PROFILES: CRIMINAL TARIFF PROGRAM*

	AVERAGE AGE	MONTHLY INCOME	MONTHLY EXPENSES	AVERAGE TOTAL ASSETS	EDUCATION % LESS THAN HIGH SCHOOL	MARITAL STATUS: % MARRIED	SEX % MALE
East Kootenay	28.5	$ 632	$ 760	$ 3843	75.3	31.7	82.8
Central Kootenay	29.6	$ 598	$ 557	$ 3475	70.1	22.2	89.7
Okanagan	29.6	$ 556	$ 558	$ 1627	71.3	22.4	88.5
Kamloops Interior	29.5	$ 529	$ 546	$ 1105	75.0	26.5	89.1
Greater Vancouver	28.6	$ 493	$ 505	$ 680	67.5	22.8	86.7
Vancouver Island	26.8	$ 512	$ 546	$ 1520	71.5	23.6	87.1
Central Interior	28.2	$ 574	$ 630	$ 1082	81.2	29.1	86.6
Northern Region	28.9	$ 570	$ 710	$ 548	83.1	33.0	91.3
North West Coast	27.7	$ 549	$ 613	$ 676	80.9	22.3	86.7
Cariboo	29.8	$ 559	$ 552	$ 1676	86.6	32.1	88.2
Provincial**	29.8	$ 500	$ 519	$ 818	—	24.1	87.1

* - Estimates based on 20% sample of all clients for the 12 month period preceding the introduction of restraint programming (October 1, 1982).

** - Estimates based on 10% sample were used for provincial level statistical analysis. The provincial level averages for the 20% sample estimates are: average age, 29.8; monthly income, $513; monthly expenses, $534; average total assets, $4,427; % married, 24.1; % male, 87.1.

TABLE 2-5

ADMINISTRATIVE SERVICE AREAS*
ACCEPTED APPLICANT PROFILES: CRIMINAL TARIFF PROGRAMS

	AVERAGE AGE	MONTHLY INCOME	MONTHLY EXPENSES	AVERAGE TOTAL ASSETS	EDUCATION: % LESS THAN HIGH SCHOOL	MARITAL STATUS: % MARRIED	SEX % MALE
Abbotsford	29.3	$ 569	$ 605	$ 2614	65.8	29.4	87.1
Burnaby	27.7	$ 568	$ 558	$ 380	69.3	22.9	89.0
Campbell River	27.0	$ 553	$ 530	$ 3250	75.1	24.0	82.6
Chilliwack	28.0	$ 536	$ 536	$ 947	70.5	30.3	83.3
Cranbrook	28.5	$ 632	$ 760	$ 3844	75.3	31.7	82.8
Dawson Creek	28.9	$ 543	$ 710	$ 414	82.6	28.0	89.4
Fort St. John	27.1	$ 617	$ 711	$ 769	83.6	37.4	93.0
Hazelton	29.6	$ 534	$ 553	$ 1127	74.3	26.8	89.0
Kelowna	28.6	$ 611	$ 569	$ 2584	67.2	23.9	89.0
Merritt	26.0	$ 414	$ 406	$ 602	94.1	18.4	92.3
Nanaimo	26.4	$ 487	$ 545	$ 948	77.1	28.8	86.4
Nelson	29.6	$ 598	$ 557	$ 3475	70.1	22.2	89.7
Penticton	30.0	$ 514	$ 567	$ 879	71.3	18.3	89.6
Powell River	28.3	$ 489	$ 552	$ 2421	72.5	23.0	87.6
Prince George	28.6	$ 561	$ 592	$ 965	79.8	28.2	87.1
Prince Rupert	27.7	$ 550	$ 614	$ 677	80.9	22.3	86.7
Quesnel	31.0	$ 533	$ 547	$ 2705	89.0	29.7	89.4
Smithers	27.2	$ 604	$ 715	$ 1349	86.4	32.4	84.7
Surrey	27.0	$ 610	$ 636	$ 1563	72.1	26.0	87.7
Vancouver	29.3	$ 446	$ 461	$ 314	65.9	21.2	85.3
Vernon	30.3	$ 547	$ 633	$ 1438	75.7	26.0	86.7
Victoria	27.0	$ 517	$ 551	$ 1405	67.3	20.5	89.2
New Westminster	26.8	$ 567	$ 561	$ 1088	68.0	21.7	91.1
Williams Lake	29.0	$ 577	$ 557	$ 979	84.9	34.0	87.3

* There were insufficient numbers in the sample to make estimates for the Burns Lake ASA and the Maple Ridge ASA.

1.1.3.3 Regional Family Legal Aid Plan Client Profiles

The Regional profiles for family tariff clients showed about the same amount of variation as the profiles for criminal tariff clients (Tables 2-6, 2-7). As with criminal tariff clients, family tariff clients tended to be more poorly educated in the Cariboo than elsewhere in the province though only marginally less well educated than accepted applicants in northern Regions. There was little difference among the Regions' profiles for average age of clients, average income or average expenses. There was some Regional variation in the proportion of clients who were married or living in a common law relationship with a low in the Central Kootenays of 31% and a high of 46% in the Central Interior.

Average assets varied across Regions for family tariff clients as they did for criminal tariff clients. For family tariff clients the major asset was equity in a family home. The variability in asset levels once again might reflect the local discretion offices had in weighing the importance of assets in making eligibility decisions or might reflect variable home ownership patterns or both.

The variation across Administrative Service Areas, as would be expected, was greater than the variation across Regions. Variation usually increases as the level of aggregation decreases. Variation across a larger number of small areal units is almost always greater than variation across a smaller number of larger units. Average assets showed the greatest variation at the ASA level. Even across ASA's, average incomes and average expenses were low.

1.1.3.4 Special Target Group Profiles

During the interviews with staff in the Branch Offices, CLO's and CLO/AD Offices, the office directors were asked to estimate the proportion of their clientele that fell into several population categories that might, *a priori*, be thought to have special needs for LSS services. Office estimates were based on all clients, both those receiving office services and those referred to private counsel. The previous profiles were based on individuals receiving or applying for representational services. Table 2-8 contains the estimates of these target populations by type of office. Information was collected from 28 offices. Of these, 25 reported that Native Indians made up a clearly identifiable sub-population of clients. Three offices, all within suburban Greater Vancouver said they had virtually no Native Indian clients. The Native CLO's reported the

TABLE 2-6

REGIONS
ACCEPTED APPLICANT PROFILES: FAMILY TARIFF PROGRAM*,**

	AVERAGE AGE	MONTHLY INCOME	MONTHLY EXPENSES	AVERAGE TOTAL ASSETS	EDUCATION: % LESS THAN HIGH SCHOOL	MARITAL STATUS: % MARRIED	SEX: % MALE
East Kootenay	31.0	$ 752	$ 831	$ 3317	55.9	44.1	22.5
Central Kootenay	32.8	$ 727	$ 756	$ 5083	48.0	30.8	21.0
Okanagan	32.9	$ 672	$ 796	$ 6813	57.3	37.1	24.1
Kamloops Interior	31.7	$ 720	$ 773	$ 2749	57.1	37.4	27.4
Greater Vancouver	32.2	$ 744	$ 823	$ 4391	48.3	35.7	29.6
Vancouver Island	31.5	$ 690	$ 758	$ 3889	51.8	37.3	26.7
Central Interior	30.8	$ 725	$ 758	$ 2348	61.8	45.5	24.5
Northern Region	29.7	$ 723	$ 821	$ 4198	66.3	40.5	20.1
North West Coast	30.7	$ 675	$ 848	$ 2654	66.3	42.6	30.0
Cariboo	31.8	$ 725	$ 839	$ 7540	69.6	39.9	35.4
Provincial***	32.3	$ 670	$ 789	$ 3935	—	37.0	27.6

* - Estimates based on 20% sample of all clients for the 12 month period preceding the introduction of restraint programming (October 1, 1982).

** - Includes figures from both the family tariff program and the Polglase tariff program. The Polglase tariff program was discontinued in April of 1982. See Chapter 1 for a description of this special tariff program.

*** - Estimates based on 10% sample. The 20% provincial sample estimates are: average age, 31.9; monthly income, $718; monthly expenses, $798; average total assets, $4,427; % married, 37.4; % male, 27.6.

TABLE 2-7

ADMINISTRATIVE SERVICE AREAS
ACCEPTED APPLICANT PROFILES: FAMILY TARIFF PROGRAMS

	AVERAGE AGE	MONTHLY INCOME	MONTHLY EXPENSES	AVERAGE TOTAL ASSETS	EDUCATION: % LESS THAN HIGH SCHOOL	MARITAL: STATUS % MARRIED	SEX: % MALE
Abbotsford	31.0	$ 762	$ 805	$ 4435	52.6	19.8	31.3
Burnaby*	—	—	—	—	—	—	—
Campbell River	32.6	$ 706	$ 793	$ 5768	51.6	39.5	22.6
Chilliwack	32.8	$ 765	$ 832	$ 7445	54.3	40.5	31.1
Cranbrook	31.0	$ 752	$ 831	$ 3317	55.9	44.1	22.5
Dawson Creek	30.6	$ 667	$ 779	$ 5364	72.0	37.7	21.9
Fort St. John	28.4	$ 808	$ 885	$ 2421	59.7	43.7	17.9
Hazelton	31.6	$ 723	$ 778	$ 2667	56.8	37.9	27.3
Kelowna	33.8	$ 655	$ 850	$ 9406	55.0	36.5	26.9
Merritt	35.0	$ 646	$ 678	$ 4630	66.7	22.2	33.3
Nanaimo	30.5	$ 643	$ 727	$ 3069	60.3	41.6	24.5
Nelson	32.8	$ 727	$ 756	$ 5083	48.0	30.8	21.0
Penticton	31.8	$ 609	$ 696	$ 2980	62.4	29.3	24.3
Powell River	30.5	$ 675	$ 833	$ 6282	53.8	41.9	21.5
Prince George	30.5	$ 737	$ 746	$ 2654	60.6	43.7	23.6
Prince Rupert	30.7	$ 675	$ 848	$ 2654	66.3	42.6	30.0
Quesnel	31.5	$ 657	$ 772	$11945	72.6	26.1	28.7
Smithers	31.6	$ 692	$ 789	$ 1540	66.4	50.8	27.2
Surrey	31.5	$ 783	$ 896	$ 6335	49.2	36.6	26.0
Vancouver	32.9	$ 694	$ 762	$ 2080	45.6	39.6	32.0
Vernon	32.8	$ 717	$ 789	$ 6103	57.3	40.8	21.5
Victoria	31.8	$ 710	$ 767	$ 3884	46.1	33.7	24.2
New Westminster	32.4	$ 780	$ 846	$ 4894	48.8	30.3	28.1
Williams Lake	32.1	$ 795	$ 908	$ 2958	67.4	53.2	41.8

* For family matters Burnaby figures could not be separated.

highest proportion of Native Indians as clients. The four Native CLO's surveyed reported, in ascending order, that 50%, 60%, 75%, and 87½% of their clients were Native Indians. One NCLO expressed concern that non-Native Indians might be deterred from going to an NCLO even though services in NCLO's were not restricted to Native Indians. Two Branch offices reported that Natives made up 50% or more of their client populations. There was less distinction between NCLO's and some Branch Offices than might be expected on the basis of the name Native Community Law Office.

No office type seemed to serve a high proportion of juveniles, seniors or handicapped individuals. All offices reported serving a large number of women. At the individual office level the female client population estimates ranged from 20% to 70%.

The estimates for specific groups varied considerably from Region to Region. Table 2-9 presents the average office estimates by region.

By their own estimates the offices served a varied client group. One office reported that Doukhobors made up 40% of office client load. Two other offices indicated that about 30% of their client load was Mennonite. Five other offices identified East Indians as a major client ethnic group.

Some of the variation was the result of socio-demographic variations in population between the areas being served; some of the variation seemed to be the result of the type of services offered by the offices. CLO's provided more civil services; Branch Offices more criminal tariff services. The next two sections of the chapter explore the socio-demographic and justice system profiles of the regions. The socio-demographic and justice system profiles will then be compared to variation in clientele across regions and to actual office utilization patterns.

1.1.4 Community Profiles

Major socio-demographic characteristic profiles were created for the Regions and Administrative Service Areas. The profiles were developed from 1981 Census figures, Ministry of Human Resources welfare information, and Revenue Canada statistics. Three categories of information were used in the profiles: socio-demographic information from the 1981 Census; 1981 social assistance data; and 1981 income tax data. A large number of variables were originally included in the profile analysis. As is commonly the case

TABLE 2-8

ESTIMATED PROPORTION OF CLIENTS BELONGING TO SPECIFIC GROUPS*

	NATIVE INDIAN	JUVENILE	ELDERLY	FEMALE	HANDICAPPED
Branch Offices	24.8%	9.2%	9.7%	46.0%	6.5%
CLO/AD's	22.0%	11.8%	12.2%	45.0%	4.2%
CLO's	2.3%	4.3%	10.3%	61.3%	5.3%
NCLO's	68.1%	7.8%	14.4%	47.5%	2.3%
OFFICE AVERAGE	27.0%	8.9%	11.0%	49.5%	5.2%

* The figures in this table represent average office estimates. The estimates are not weighted by case flows through offices and do not represent overall estimates based on total population. The estimates are office profiles.

TABLE 2-9

ESTIMATED REGIONAL PROPORTIONS OF CLIENTS BELONGING TO SPECIFIC TARGET POPULATIONS*

	NATIVE INDIAN	JUVENILE	ELDERLY	FEMALE	HANDI-CAPPED
East Kootenay	10.0%	30.0%	20.0%	60.0%	2.0%
Central Kootenay	1.0%	15.0%	15.0%	60.0%	5.0%
Okanagan	3.0%	3.5%	3.0%	60.0%	1.0%
Kamloops Interior	45.0%	15.0%	12.5%	42.0%	2.0%
Greater Vancouver	8.3%	6.6%	14.0%	54.3%	10.9%
Vancouver Island	20.8%	9.4%	5.5%	57.5%	6.0%
Central Interior	49.4%	10.3%	17.8%	54.6%	2.5%
Northern	47.5%	10.0%	7.5%	27.5%	3.5%
North West Coast	66.7%	3.7%	5.0%	50.0%	1.3%
Cariboo	31.3%	9.3%	9.3%	40.0%	1.5%

* - Figures in this table represent office estimates.

with socio-economic measures, many of the variables proved to be highly intercorrelated. As will be reported in section 3 of this chapter in describing statistical service utilization models, many of the socio-demographic, welfare and income variables proved to be poor predictors of actual utilization rates. The profiles presented here include those variables that proved to be good predictors of utilization and some additional basic socio-demographic descriptors that, while not predictors of utilization, do provide a picture of the province and a picture of the distribution of potential clients.

1.1.4.1 Regional Profiles

Table 2-10 contains the regional profiles. The profile characteristics are presented as rates per 1000 population, that is, the count of the number of people falling into a given category within a region, divided by the population of the region and multiplied by 1000. As can be seen from the table, the Regions varied little on major demographic characteristics. Most Regions had similar proportions of young males and females in the population (about 200 per 1000 persons were between 15 and 24 years of age). The major exception to this pattern was found in the Northern Region of British Columbia which had a much higher rate of young persons. This higher rate of young persons was consistent with the extractive resource based economy of the north.

There was more variation between the Regions on employment characteristics, in particular in rates of unemployment for males with grade 9 education or less. During 1981, Greater Vancouver and Vancouver Island had few low education, unemployed males compared to their overall population. Other areas of the province had much higher rates, with the Central Interior having the highest. The Cariboo Region had a rate close to the Central Interior and also had the highest unemployment rate for males with a high school education.

The welfare pattern varied across Regions. The Ministry of Human Resources provided counts of the number of people on welfare during the month of February, 1981, for each of their reporting units. These figures were aggregated to the LSS Office Service Areas, Administrative Service Areas and Regions. Even in 1981, there was substantial variation across Regions in the proportion of the population on welfare. In 1981, male welfare population rates were highest in the Northern Region and the Cariboo Region. Female welfare rates varied less across the Regions.

TABLE 2-10

REGIONAL SOCIO-DEMOGRAPHIC PROFILES
RATE PER 1000 POPULATION

	EAST KOOTENAY	CENTRAL KOOTENAY	OKANAGAN	KAMLOOPS INTERIOR	GREATER VANCOUVER	VANCOUVER ISLAND	CENTRAL INTERIOR	NORTHERN	NORTH WEST COAST	CARIBOO	PROVINCIAL RATE
Demographic Characteristics											
Males 15-19	54.80	49.00	53.30	56.80	46.40	48.70	58.90	68.00	54.60	59.60	59.90
Males 20-24	55.10	43.80	43.60	51.30	50.50	48.80	58.30	73.60	56.60	54.00	50.60
Females 15-19	52.30	46.40	51.10	55.20	44.50	46.60	57.10	63.70	50.80	55.40	47.40
Females 20-24	52.90	39.10	43.40	52.20	52.00	49.44	58.40	71.10	55.50	52.50	51.20
Speaking other languages	135.80	202.50	189.10	135.10	240.70	122.70	150.00	130.70	180.80	135.90	197.80
Indian speaking	1.50	.70	1.20	3.20	.50	1.00	19.9	14.40	19.00	25.20	2.90
Indian population rate	5.80	3.20	18.60	41.70	5.70	16.70	40.20	20.90	105.20	45.70	15.20
Employment Characteristics											
Employed single males 15-24	43.10	42.70	41.40	42.40	42.70	44.40	45.40	49.40	45.40	42.50	43.20
Unemployed single males 15-24	9.60	7.10	8.60	8.10	8.40	7.50	8.10	7.70	8.50	9.20	8.20
Unemployed married males 15-24	2.10	1.30	1.30	1.80	1.10	1.40	2.80	1.60	1.30	2.70	1.30
Unemployed males - less than grade 9	5.70	5.00	4.40	5.30	2.70	2.30	8.20	7.70	4.10	8.00	3.50
Unemployed males - high school graduates	14.50	10.10	12.50	12.10	10.00	9.30	13.90	11.50	10.80	18.00	10.00
Unemployed married females	11.90	9.90	12.60	11.30	9.00	9.80	12.20	7.00	12.00	10.10	9.80
Marital Status											
Separated males	12.50	11.20	10.60	11.10	12.40	12.00	12.50	13.00	13.00	11.50	12.10
Separated females	12.30	12.10	13.30	12.50	15.70	14.80	12.40	13.50	10.00	12.30	14.60
Single parent families with children under 6 years old	5.30	3.90	4.70	5.40	4.30	5.00	5.90	6.10	4.80	5.90	4.70

TABLE 2-10 (Cont'd)

REGIONAL SOCIO-DEMOGRAPHIC PROFILES
RATE PER 1000 POPULATION

	EAST KOOTENAY	CENTRAL KOOTENAY	OKANAGAN	KAMLOOPS INTERIOR	GREATER VANCOUVER	VANCOUVER ISLAND	CENTRAL INTERIOR	NORTHERN	NORTH WEST COAST	CARIBOO	PROVINCIAL RATE
Welfare Characteristics											
Males on welfare	6.60	5.70	6.70	8.20	6.43*	7.80	8.80	12.90	7.60	11.40	11.50
Females on welfare	4.00	4.80	4.70	5.20	4.50	5.00	5.70	6.10	4.10	5.70	5.90
Income Information											
Non-taxable return rate	208.40	210.00	235.90	212.00	208.00	214.00	203.10	237.40	163.50	223.40	211.10
Rate of tax returns less than $6000	205.60	194.70	220.70	204.10	202.90	204.00	207.40	242.90	159.40	227.70	204.80
Average income from returns	13,100	12,300	11,900	12,500	13,700	13,100	13,000	12,700	14,000	11,900	13,300

* - Vancouver and Abbotsford data missing.

The major inter-Regional variation was in measures of Native Indian and minority populations. Two measures of Native population were used in creating the profiles: the reported rate of individuals who spoke a Native Indian language at home; and the proportion of a Region's population living on reserves located within that Region. Neither of these measures is a "good" measure of Native population. No "good" measures exist. Native populations can be identified either on a self-identification basis or on a status basis. No official statistics for self-identification measures exist. Status Native Indian population counts exist, but are not broken down by home location. Counts are tabulated by band, not by region. For the purposes of this evaluation, both of the Census Canada measures just described were used. The first measure, proportion of the population speaking a Native language at home, clearly undercounts status Indians and self-identified Indians, but it does provide some indication of regional variation in Native Indian populations. Similarly, the proportion of a Region's population living on reserves does not measure all Native Indians. It might, however, index regional variation in Native populations and it does measure clearly identified Native populations for whom LSS might design special programs. Across the province, 37,500 Native Indians were identified as living on reserves. Table 2-11 contains the Regional values for the two Census variables used and the LSS office estimates of the proportion of their clients who were Native Indians. As can be seen from the table, and taking into account the process of individual estimation used by Office directors in identifying Native Indian clients, the correspondence between office estimates and reserve Native Indian counts was strong. However, on no other socio-demographic characteristic was there as much variation as on the Native Indian measures.

The Central Kootenay and the Greater Vancouver Regions had sizeable non-Native Indian minority populations. In the Central Kootenay the minority population was Doukhobors; in Greater Vancouver the major minority populations were Chinese and East Indian.

While minority population proportions varied, there was little variation in the three income measures used in the profiles. A few comments should be made about the income data used in the profiles. Since legal aid representational services are primarily provided to individuals unable to pay for a lawyer, it is important that economic indicators of wealth and poverty be developed. Some indirect measures were available from the 1976 census. No direct census measures were available from the 1981 census at the time

TABLE 2-11

MEASURES OF NATIVE INDIAN POPULATION

	EAST KOOTENAY	CENTRAL KOOTENAY	OKANAGAN	KAMLOOPS INTERIOR	GREATER VANCOUVER	VANCOUVER ISLAND	CENTRAL INTERIOR	NORTHERN	NORTH WEST COAST	CARIBOO
Office Estimate of Native Clients	10.0%	1.0%	3.0%	45.0%	8.3%	20.8%	49.4%	47.5%	66.7%	31.3%
Native Speakers Rate per 1000 population	1.5	.7	1.2	3.2	.5	1.0	19.9	14.4	19.0	25.2
Reserve population counts per 1000 population	5.8	3.2	18.6	41.7	5.7	16.7	40.2	20.9	105.2	45.7
Native CLO	No	No	No	Yes (1)	No	No	Yes (2)	No	Yes (2)*	No

* Masset and Skidegate are counted as separate offices

this evaluation was performed. The census is conducted every five years; income data is collected only every ten years. The 1981 census collected income data, but they were not published at the time the profiles were generated. Only indirect measures such as education and employment data were available. Other sources of information were examined to supplement the indirect income measures, such as employment rates, used in the profiles.

The best source of income data available for this evaluation was obtained from Revenue Canada. Every year Revenue Canada collates data from income tax returns. These data were aggregated to the areal units used in this evaluation.

Since these income data were based upon income tax returns, there are certain limitations which must be considered. These limitations primarily relate to the fact that some people do not file income tax returns even when they have earned income. Native Indians are not required to file returns if they earn income only on the reserve. Other people who might not file returns are those persons who did not earn enough to have any taxable income. However, in 1981, many residents of British Columbia filed returns even though they had no taxable income in order to qualify for the British Columbia renter's tax credit. These limitations are a concern if one is examining the actual number of persons in the different income brackets. The profiles used proportions of individuals in these various income brackets. The absolute rates are biased measures of income. The pattern of the rates, however, showed variation in income across Regions. It is the pattern of rates that reveals regional variation if it exists.

1.1.4.2 Administrative Service Area Profiles

The profiles developed for the 27 Administrative Service Areas showed more area to area variation than the Regional profiles. This is to be expected. As areal units get smaller, variation between units increases. At the Regional level, only the Northern Region stood out as having a disproportionately high number of young persons. Two Administrative Service Areas (ASA) outside the Northern Region had high rates of young people: Hazelton ASA; and Smithers ASA. Both of these ASA's were within the Central Interior Region. All four of the high rate ASA's were in the northern part of the province. Vancouver ASA stood out as having a small proportion of its population falling into the 15-19 age range.

There was great variation in employment patterns at the ASA level. At the Regional level, the Central Interior had the highest rate of unemployment for males with less than grade 9 education. This high rate came principally from an extremely high rate in the Hazelton ASA within that Region. The rate in the Hazelton ASA was 19.7 per 1000 persons. The provincial rate was 3.5. Lowest unemployment/educational levels were found in ASA's in the Greater Vancouver and the Vancouver Island Regions.

ASA welfare rates for 1981 similarly showed great variation. Areas which had high male unemployment also had high male welfare rates. The highest male welfare rates were in the ASA's in the northern part of the province and in the Cariboo Region. Female welfare rates varied less.

At the Regional level, the characteristic that varied the most was the Native Indian population. The variability on these measures was even greater at the Administrative Service Area level of aggregation. In one ASA, Hazelton in the Central Interior Region, almost 50% of its population lived on reserves and almost 25% of its population spoke a Native Indian language as a primary language. The Burns Lake ASA, Merritt ASA, and Queen Charlotte/Prince Rupert ASA had high rates on the measures of Native Indian population, but no area approached the rates in Hazelton ASA. At the other end of the range, many ASA's had low rates of Native Indian population. The lowest rates were found in ASA's in the Greater Vancouver Region.

1.1.4.3 Profile Summary

The pattern of socio-demographic characteristic variation across the province was basically similar to variation between rural and urban areas. Using population rates, the Greater Vancouver Region and many of the ASA's within the Region had a low proportion of population groups who might be clients of the LSS. The more remote areas, and particularly northern areas, had a higher proportion of probable clients, measured by proportion of the population in poverty, unemployed with low education, and young and on welfare.

The more remote areas are also the areas where it is most difficult to deliver services. In dense, more heavily populated areas, locational choices for offices are easier. Offices can be larger and generally more cost efficient. Client flows are higher. In rural areas offices must be smaller and economies of scale are lost. In more heavily populated areas, the LSS can assume that people can get to offices. Public transportation rarely exists in remote areas; roads may not exist.

TABLE 2-12

ADMINISTRATIVE SERVICE AREAS SOCIO-DEMOGRAPHIC PROFILES

RATE PER 1000 POPULATION

	EAST KOOTENAY	CENTRAL KOOTENAY	OKANAGAN			KAMLOOPS INTERIOR		GREATER VANCOUVER							
	CRANBROOK	NELSON	VERNON	KELOWNA	PENTICTON	KAMLOOPS	MERRITT	ABBOTSFORD	BURNABY	CHILLIWACK	NEW WESTMINSTER	POWELL RIVER	SURREY	MAPLE RIDGE	VANCOUVER
Demographic Characteristics															
Males 15-19	54.80	49.00	54.70	55.50	48.80	56.90	56.50	61.90	43.10	54.60	53.60	47.70	54.30	50.80	38.80
Males 20-24	55.10	43.80	44.60	46.00	38.70	52.00	44.60	59.50	55.90	48.60	49.70	42.20	51.70	45.70	49.60
Females 15-19	52.30	46.40	53.40	53.80	44.10	55.10	55.40	58.90	42.00	52.00	50.60	44.70	51.50	48.10	37.90
Females 20-24	52.90	39.10	45.30	44.90	38.60	52.90	46.20	61.00	57.50	45.40	49.20	37.40	53.40	46.90	52.90
Speaking other languages	135.80	202.50	160.70	221.90	185.80	131.80	165.70	328.20	234.30	192.80	203.00	123.60	194.40	158.10	287.40
Indian speaking	1.50	.70	1.20	.40	2.20	2.20	12.30	.40	.20	.30	.20	.60	.30	.70	.70
Indian population rate	5.80	3.20	18.10	21.30	15.50	37.20	83.90	.40	0	33.80	.20	38.10	1.20	5.50	7.10
Employment Characteristics															
Employed single males 15-24	43.10	42.70	42.90	39.90	41.30	41.80	47.30	49.70	47.70	51.30	39.70	35.20	39.90	38.40	43.30
Unemployed single males 15-24	9.60	7.10	9.30	7.50	9.20	8.40	5.90	5.20	9.90	6.60	7.70	8.50	7.20	6.20	9.30
Unemployed married males 15-24	2.10	1.30	1.70	1.20	.80	1.80	1.60	1.50	1.10	1.10	.90	1.20	1.00	1.60	1.10
Unemployed males - less than grade 9	5.70	5.00	5.60	3.70	3.60	5.10	6.40	2.50	2.30	4.00	1.70	3.40	2.30	2.30	3.30
Unemployed males - high school graduates	14.50	10.10	14.40	10.70	12.10	12.10	12.30	8.80	10.80	9.70	9.00	11.50	9.70	9.70	10.40
Unemployed married females	11.90	9.90	11.70	14.30	11.70	11.10	12.90	7.70	9.80	9.40	9.30	10.20	9.00	8.10	8.80
Marital Status															
Seperated males	12.50	11.20	10.60	10.50	10.90	11.20	10.20	9.90	11.80	10.10	10.60	11.90	11.80	12.20	14.10
Seperated females	12.30	12.10	13.10	14.50	12.20	12.60	11.30	12.60	16.00	13.00	14.40	11.80	16.70	13.60	16.90
Single parent families with children under 6 years old	5.30	3.90	5.30	4.90	3.70	5.20	6.90	5.20	3.90	5.30	3.90	4.50	5.80	5.70	3.90

TABLE 2-12 (Cont'd)

ADMINISTRATIVE SERVICE AREAS SOCIO-DEMOGRAPHIC PROFILES

RATE PER 1000 POPULATION

	EAST KOOTENAY	CENTRAL KOOTENAY	OKANAGAN			KAMLOOPS INTERIOR		GREATER VANCOUVER							
	CRANBROOK	NELSON	VERNON	KELOWNA	PENTICTON	KAMLOOPS	MERRITT	ABBOTSFORD	BURNABY	CHILLIWACK	NEW WESTMINSTER	POWELL RIVER	SURREY	MAPLE RIDGE	VANCOUVER
Welfare Characteristics															
Males on welfare	6.60	5.70	6.80	6.70	6.70	8.00	10.20	*	6.50	6.80	5.10	6.90	7.10	9.50	*
Females on welfare	4.00	4.80	5.20	4.80	4.00	5.10	6.20	*	4.90	5.30	3.60	4.60	5.00	5.70	*
Income Information															
Non-taxable return rate	208.40	210.00	232.60	240.40	234.70	211.40	217.30	237.20	192.00	238.40	188.90	211.00	228.80	213.70	208.90
Rate of tax returns less than $6000	205.60	194.70	219.50	225.10	216.20	205.20	193.90	223.70	185.00	22.60	190.40	207.40	224.00	209.50	202.10
Average income from returns	13,100	12,300	11,900	12,200	11,300	12,600	11,500	12,200	13,600	11,500	14,000	12,800	12,800	12,500	14,300

* Missing Information

TABLE 2-12 (Cont'd)

ADMINISTRATIVE SERVICE AREAS SOCIO-DEMOGRAPHIC PROFILES

RATE PER 1000 POPULATION

	VANCOUVER ISLAND			CENTRAL INTERIOR				NORTHERN REGION		NORTH WEST COAST		CARIBOO	
	CAMPBELL RIVER	NANAIMO	VICTORIA	HAZELTON	PRINCE GEORGE	SMITHERS	BURNS LAKE	DAWSON CREEK	FORT ST. JOHN	QUEEN CHARLOTTES	PRINCE RUPERT	QUESNEL	WILLIAMS LAKE
Demographic Characteristics													
Males 15-19	55.50	53.70	43.70	68.20	57.20	67.80	59.60	63.90	73.30	54.60		59.60	
Males 20-24	55.50	48.50	47.00	55.30	56.70	70.40	60.80	62.40	88.20	56.60		54.00	
Females 15-19	59.20	50.90	42.10	66.20	56.70	57.70	56.60	60.70	67.50	50.80		55.40	
Females 20-24	52.60	47.30	49.80	53.30	58.10	66.10	52.90	62.60	82.30	55.50		52.50	
Speaking other languages	122.50	133.80	115.90	83.00	151.40	177.30	136.30	118.00	130.70	180.80		135.90	
Indian speaking	3.50	.70	.50	231.30	7.50	12.30	40.70	15.10	13.40	19.00		25.20	
Indian population rate	28.40	27.40	6.60	461.40	17.90	15.10	67.80	11.20	33.70	105.20		45.70	
Employment Characteristics													
Employed single males 15-24	45.40	44.20	44.20	44.40	44.50	47.90	52.30	47.80	51.60	45.40		42.50	
Unemployed single males 15-24	6.60	8.00	7.40	6.90	8.50	8.00	5.40	8.90	6.20	8.50		9.20	
Unemployed married males 15-24	1.20	1.50	1.30	2.90	3.00	2.90	1.20	1.70	1.40	1.30		2.70	
Unemployed males - less than grade 9	3.40	3.20	1.50	19.70	8.20	5.90	4.20	7.90	7.40	4.10		8.00	
Unemployed males - high school graduates	10.00	10.90	8.10	14.80	14.30	13.50	9.10	12.90	9.70	10.80		18.00	
Unemployed married females	14.00	11.70	7.30	12.80	11.90	14.40	11.50	7.20	6.70	12.00		10.10	
Marital Status													
Separated males	14.10	11.30	11.80	9.80	12.60	14.40	10.30	13.00	12.90	13.00		11.50	
Separated females	13.40	13.10	16.20	7.90	13.00	12.70	7.90	14.60	12.20	10.00		12.30	
Single parent families with children under 6 years old	5.20	5.50	4.60	7.90	6.10	4.20	4.80	6.40	5.70	4.80		5.90	

TABLE 2-12 (Cont'd)

ADMINISTRATIVE SERVICE AREAS SOCIO-DEMOGRAPHIC PROFILES

RATE PER 1000 POPULATION

	VANCOUVER ISLAND			CENTRAL INTERIOR				NORTHERN REGION		NORTH WEST COAST		CARIBOO	
	CAMPBELL RIVER	NANAIMO	VICTORIA	HAZELTON	PRINCE GEORGE	SMITHERS	BURNS LAKE	DAWSON CREEK	FORT ST. JOHN	QUEEN CHARLOTTES	PRINCE RUPERT	QUESNEL	WILLIAMS LAKE
Welfare Characteristics													
Males on welfare	10.30	8.40	6.70	13.20	8.50	13.70	*	13.70	11.90	7.60		11.40	
Females on welfare	5.70	5.70	4.40	7.30	5.90	6.40	*	6.80	5.10	4.10		5.70	
* Missing Information													
Income Information													
Non-taxable return rate	205.70	214.90	215.90	206.40	198.00	224.60	226.40	220.00	260.20	163.50		223.40	
Rate of tax returns less than $6000	208.80	207.10	200.70	211.10	203.40	225.50	224.00	220.20	270.00	159.40		227.70	
Average income from returns	13,400	13,000	13,100	9,500	13,200	12,700	12,000	12,100	13,300	14,000		11,900	

1.1.5 Justice System Profiles

Justice System profiles were created for Regions and Administrative Service Areas for 1981. The LSS offices exist within differing networks of governmental services. Crime rates also vary across the province. Both varying governmental services and varying crime rates might potentially influence the demand for legal aid services in different areas. For example, if a Rentalsman office is located in a community, its presence may generate demand at an LSS Branch Office or CLO for advice about rental problems, or conversely, the presence of a Rentalsman office might decrease the pressure on the local LSS office for advice about rental problems. High crime rates might produce a higher rate of individuals needing criminal legal aid tariff services. LSS offices do not operate in a vacuum. They are almost certainly responsive to other services available through government agencies and to local crime problems.

Many justice system services and facilities are located throughout the province. For example, police services are available throughout the province; ministry of Human Resources services are available through local offices in most reasonably sized cities; there are provincial court sittings in over 100 locations; probation and family services are widely available throughout the province; Federal Employment and Immigration offices are found in most reasonably sized communities in British Columbia.

The LSS Branch Offices and CLO's can have easy contact with all those services since all those services are either available in or are within a close distance of every community with a LSS office or CLO. Other federal and provincial socio-legal services are not as widely available. Eight governmental and legal services were included in the justice system profiles. The included services are those which potentially generate clients for the LSS offices or take referrals from the LSS offices and CLO's and which are not widely available across the province. It was not possible to know *a priori* whether the existence of such services increased or decreased demand for legal services.

The utilization analysis described later in this chapter found that only the activity of courtworkers proved to be a good predictor of utilization. The following centres and offices were identified:

- Correctional centres, both federal and provincial.

  The LSS has clients in correctional facilities.

- Native Courtworkers

  Native Courtworkers act as intake points for the criminal tariff program. The existence of Native Courtworkers and the local LSS office's or CLO's relationship with the courtworkers potentially influences the number of Native Indians applying for legal aid services.

- Lawyer Referral Services

  Several British Columbia communities have Lawyer Referral services where an individual can seek advice from a lawyer. Participating lawyers provide up to half an hour's service for a small fee. Such additional sources of legal advice may divert individuals from the LSS local service offices or may increase lawyer referrals to LSS.

- Rentalsman Offices

  Up until 1983 British Columbia had a series of Rentalsman Offices which handled disputes between landlords and tenants. As with the Lawyer Referral Service, these offices may have decreased the local demand at LSS offices for advice in disputes with landlords.

- Human Rights Commission Office

  Up until 1983, British Columbia had several offices which handled human rights problems. These offices may have reduced demand on local LSS services.

- Consumer and Corporate Affairs Offices

  The province provides debt counsellor services through its Consumer and Corporate Affairs offices. These counsellors may handle problems which otherwise would be taken to LSS offices.

- Workers' Compensation Offices

  The presence of offices handling Workers' Compensation appeals may produce local demand for advice about Workers' Compensation Board procedures.

- Housing Management Commission Offices

  The presence of these offices may produce localized demand for advice or advocacy work on behalf of tenants in subsidized housing.

1.1.5.1 Regional System Profiles

Table 2-13 contains the Regional Justice System profiles of governmental services available across the province. As can be seen from the table, not all services are available across the entire province. There is difficulty delivering these governmental services uniformly just as there is difficulty delivering legal aid client services uniformly. The Greater Vancouver, Vancouver Island and the Central Interior Regions had all of the listed services. These were the most populous Regions in the province. Less populous areas had fewer services. At the Regional Level, the Northern Region had the fewest services. The pattern of services available varied from Region to Region. Clearly, each agency applies its own unique rules in deciding where to locate offices.

1.1.5.2 Administrative Service Area System Profiles

The Justice System Profiles developed at the Administrative Service Area (ASA) level showed interesting pattern variability (Table 2-14). At the Regional Level, Greater Vancouver, Vancouver Island, and the Central Interior were highly serviced Regions. At the ASA level only the city of Vancouver within the Greater Vancouver Region showed high service levels. The other ASA's within that Region had fewer services. At an Administrative Service Area level of analysis, Kamloops, Vancouver, Victoria and Prince George had many services. Merritt, on the other hand, had none of the profiled services.

1.1.5.3 Regional and Administrative Service Area Crime Profiles

Crime rate profiles showed high levels of variation (see Table 2-15 and 2-16). Crime rate profiles were created for reported crimes and charges laid in provincial court.

TABLE 2-13

REGIONAL JUSTICE SYSTEM PROFILES

	EAST KOOTENAY	CENTRAL KOOTENAY	OKANAGAN	KAMLOOPS INTERIOR	GREATER VANCOUVER	VANCOUVER ISLAND	CENTRAL INTERIOR	NORTHERN REGION	NORTH WEST COAST	CARIBOO
Adult or Juvenile Correctional Centres	NO	NO	NO	YES	YES	YES	YES	NO	YES	NO
Rentalsman	YES	NO	YES	YES	YES	YES	YES	NO	NO	NO
Lawyer Referral Service	YES	YES	YES	NO	YES	YES	YES	NO	NO	YES
Human Rights	NO	NO	NO	YES	YES	YES	YES	NO	NO	NO
Consumer & Corporate Affairs	NO	NO	NO	YES	YES	YES	YES	NO	NO	NO
Workers' Compensation	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
Native Courtworkers	YES	NO	YES	YES	YES	YES	YES	YES	YES	YES

TABLE 2-14

ADMINISTRATIVE SERVICE AREA PROFILES

	ADULT OR JUVENILE CORRECTION CENTRE	RENTALSMAN	LAWYER REFERRAL SERVICE	HUMAN RIGHTS	CONSUMER & CORPORATE AFFAIRS	WORKERS' COMPEN-SATION	NATIVE COURT WORKERS
Cranbrook	NO	YES	YES	NO	NO	YES	YES
Nelson	NO	NO	YES	NO	NO	YES	NO
Vernon	NO	NO	NO	NO	NO	YES	YES
Kelowna	NO	YES	YES	NO	NO	NO	YES
Penticton	NO	NO	NO	NO	NO	YES	NO
Kamloops	YES	YES	NO	YES	YES	YES	YES
Merritt	NO	NO	NO	NO	NO	NO	NO
Abbotsford	NO	NO	NO	NO	NO	NO	NO
Burnaby	YES	NO	NO	NO	NO	NO	NO
Chilliwack	YES	NO	NO	NO	NO	YES	YES
New Westminster	YES	NO	NO	NO	NO	NO	YES
Powell River	NO	NO	NO	NO	NO	NO	YES
Surrey	NO	NO	NO	NO	NO	NO	NO
Maple Ridge	YES	NO	NO	NO	NO	NO	YES
Vancouver	YES	YES	YES	YES	YES	YES	YES
Campbell River	YES	NO	YES	NO	NO	YES	YES
Nanaimo	NO	NO	YES	NO	YES	YES	YES
Victoria	YES	YES	YES	YES	YES	YES	YES
Hazelton	NO	NO	NO	NO	NO	NO	YES
Prince George	YES	YES	YES	YES	YES	YES	YES
Smithers	NO	NO	NO	NO	NO	NO	NO
Burns Lake	NO	NO	NO	NO	NO	NO	YES
Dawson Creek	NO	NO	NO	NO	NO	NO	YES
Fort St. John	NO	NO	NO	NO	NO	YES	YES
Queen Charlottes & Prince Rupert	YES	NO	NO	NO	NO	YES	YES
Quesnel & Williams Lake	NO	NO	YES	NO	NO	YES	YES

Reported crime rates were calculated by averaging 1980, 1981 and 1982 data and using 1981 census population data to calculate the rate. This process is called "rounding the census corner" and is an important data smoothing technique. When counts are made for small areas it is important, if possible, to average over several years to reduce the impact of any exceptional events. It is not always possible to collect multi-year data. The charges laid in court crime rates were created from 1981 court data. Multi-year data would improve the estimates. Rates were calculated per 1,000 persons. Tables 2-15 and 2-16 show the rates. Crime rates and court rates were generated in such a way as to be as consistent as possible with legal aid criminal tariff categories. Rates were calculated for violent offences, property offences, driving offences, drug offences and other criminal offences. The crime categories were mutually exclusive.

Police crime rates were based on crimes known to the police data reported to the Justice Statistics Division of Statistics Canada. The Court crime rates were based on figures found in Provincial Court Statistics.

There were strong Regional crime patterns in British Columbia. The highest crime rates and prosecution rates were found in the Northern Region. The lowest rates were generally in the Vancouver Island Region. The Greater Vancouver Region had a mixture of high and low category rates.

Table 2-17 identifies whether Regions were above or below the provincial average and identifies which Regions had the highest and lowest rates in different crime categories. Kamloops, Central Interior, North West Coast and Cariboo Regions had rates above the provincial averages, but generally the rates were not as extreme as the rate in the Northern Region.

As with the socio-demographic profiles, the variability in the crime profiles was greater at the Administrative Service Area level of analysis. The ASA's within the Northern Region had high crime and court rates, but several other ASA's experienced rates as high or higher (Table 2-16). The Burns Lake ASA within the Central Interior Region had the highest court prosecution and highest reported violent crime rate. Prince George, also within the Central Interior Region, had high property crime court prosecution rates as did Chilliwack. The highest court driving offence rates were in Burns Lake, Kamloops, Prince George and Chilliwack. Burns Lake had the highest drug

TABLE 2-15

REGIONAL CRIME RATES

RATE PER 1,000 PERSONS	EAST KOOTENAY	CENTRAL KOOTENAY	OKANAGAN	KAMLOOPS INTERIOR	GREATER VANCOUVER	VANCOUVER ISLAND	CENTRAL INTERIOR	NORTHERN	NORTH WEST COAST	CARIBOO	PROV. RATE
Court Violence Rate	3.87	2.72	2.56	3.28	3.42	2.40	4.89	5.78	5.40	4.55	3.34
Court Property Rate	11.03	7.34	11.05	12.12	8.96	8.04	15.07	15.37	12.38	14.78	9.70
Court Driving Rate*	29.22	24.64	28.59	46.45	27.15	25.04	40.14	37.68	24.46	32.30	28.46
Court Drug Rate	3.82	3.64	4.34	4.02	4.00	3.02	4.80	6.17	4.31	3.55	3.91
Court Miscellaneous Rate	16.54	13.91	12.66	19.29	11.59	13.04	17.51	23.28	21.80	21.00	13.22
Police Violence Rate	30.28	21.51	26.40	41.43	37.54	28.81	44.14	53.08	36.05	39.56	35.83
Police Property Rate	213.33	136.92	236.78	273.16	243.31	225.72	282.43	332.92	267.66	227.00	240.44
Police Driving Rate*	1143.01	541.54	754.11	1271.22	619.27	664.05	919.23	1016.21	483.94	893.38	696.35
Police Drug Rate	13.10	16.54	15.76	14.01	12.45	11.39	16.48	18.02	19.12	14.67	13.24
Police Miscellaneous Rate	194.42	175.06	180.02	232.42	160.31	167.81	184.81	267.83	268.19	178.36	173.48

* Includes all non-municipal driving offences.

TABLE 2-16

ADMINISTRATIVE SERVICE AREA CRIME PROFILES

RATE PER 1,000 POPULATION	COURT VIOLENCE RATE	COURT PROPERTY RATE	COURT DRIVING RATE*	COURT DRUG RATE	COURT MISC. RATE	POLICE VIOLENCE RATE	POLICE PROPERTY RATE	POLICE* DRIVING RATE	POLICE DRUG RATE	POLICE MISC. RATE
Cranbrook	3.87	11.03	29.22	3.82	16.54	30.28	213.23	1143.01	13.10	194.42
Nelson	2.72	7.34	24.64	3.64	13.91	21.51	136.92	541.54	16.54	175.06
Vernon	2.39	11.35	28.76	4.37	12.56	24.53	234.77	768.80	16.34	184.49
Kelowna	1.80	9.15	24.14	3.80	11.13	25.87	247.82	564.42	11.14	143.11
Penticton	3.86	13.24	34.49	5.03	14.93	29.93	222.53	994.74	21.27	224.48
Kamloops	3.15	12.29	47.93	4.15	19.45	40.86	278.11	1333.62	14.33	237.32
Merritt	4.52	10.55	36.62	2.80	17.87	46.72	226.91	691.93	10.98	186.65
Abbotsford	2.60	8.71	23.56	3.51	10.22	26.34	239.42	1008.27	11.59	204.03
Burnaby	1.95	6.54	22.06	3.40	7.93	24.82	220.40	719.28	14.45	152.64
Chilliwack	5.13	16.04	42.29	8.50	23.68	37.37	253.33	1426.81	25.35	223.66
New Westminster	2.32	7.66	20.54	4.03	9.36	30.67	219.69	879.05	12.32	158.05
Powell River	2.95	5.85	25.13	2.92	17.29	33.37	193.28	534.95	13.09	194.68
Surrey	2.22	6.28	30.89	3.26	9.77	37.63	257.13	601.70	14.18	215.28
Maple Ridge	3.05	9.31	25.65	4.54	14.08	40.32	230.29	740.89	14.30	245.72
Vancouver	4.64	10.52	29.53	3.99	12.55	44.65	259.31	365.95	10.18	127.09
Campbell River	3.98	9.39	26.97	3.93	19.47	38.92	231.07	793.59	17.11	227.13
Nanaimo	2.85	9.41	28.08	2.37	16.50	31.81	232.43	683.73	11.47	203.84
Victoria	1.66	6.80	22.59	3.14	8.97	23.93	220.00	612.87	9.61	127.84
Hazelton	3.36	8.70	17.60	1.98	14.63	38.55	148.68	483.19	11.86	129.70
Prince George	4.71	16.12	42.68	4.38	16.45	42.53	297.62	887.62	15.74	180.30
Smithers	4.24	11.12	24.61	6.19	19.09	43.53	258.46	852.52	22.40	205.94
Burns Lake	8.77	12.78	47.73	9.25	28.95	66.48	228.66	1638.38	19.12	239.13
Dawson Creek	6.11	17.58	35.84	5.05	24.41	61.02	350.47	1117.09	18.53	295.65
Fort St. John	5.34	12.47	40.10	7.63	21.80	42.40	309.86	883.68	17.36	231.29
Queen Charlottes & Prince Rupert	5.40	12.38	24.46	4.31	21.80	36.05	267.66	483.94	19.12	268.19
Quesnel & Williams Lake	4.55	14.78	32.30	3.55	21.00	39.56	227.00	893.58	14.67	178.36

* Includes all non-municipal driving offences.

TABLE 2-17

PROFILE OF HIGH AND LOW CRIME RATE REGIONS

L: REGION'S RATE BELOW PROVINCIAL AVERAGE
H: REGION'S RATE ABOVE PROVINCIAL AVERAGE

LL: LOWEST RATE REGION
HH: HIGHEST RATE REGION

	EAST KOOTENAY	CENTRAL KOOTENAY	OKANAGAN	KAMLOOPS INTERIOR	GREATER VANCOUVER	VANCOUVER ISLAND	CENTRAL INTERIOR	NORTHERN	NORTH WEST COAST	CARIBOO
Court Violence Rate	H	L	L	L	H	LL	H	HH	H	H
Court Property Rate	H	LL	H	H	L	L	H	HH	H	H
Court Driving Rate	H	L	H	HH	L	L	H	H	LL	H
Court Drug Rate	L	L	H	H	H	LL	H	HH	H	L
Court Miscellaneous Rate	H	H	L	H	LL	L	H	HH	H	H
Police Violence Rate	L	LL	L	H	H	L	H	HH	H	H
Police Property Rate	L	LL	L	H	H	L	H	HH	H	L
Police Driving Rate	H	L	H	HH	L	L	H	H	LL	H
Police Drug Rate	L	H	H	H	L	LL	H	HH	H	H
Police Miscellaneous Rate	H	H	H	H	LL	L	H	HH	H	H

prosecution rate followed by Chilliwack and Fort St. John. At the ASA level, crime was generally a northern problem. The crime patterns followed the socio-demographic patterns and reinforced the picture of a "North/South" or "rural/urban" problem in British Columbia.

2.0 ACCESSIBILITY ANALYSIS

The client population across the province varied with the general socio-demographic profile of the residents of British Columbia. The LSS local service offices served this varying population base. The LSS's offices were not, however, merely passive recipients of applications and requests for legal assistance. Service delivery systems, legal services included, have a public face and can influence whether people seek out services. At the most basic level, if a service is not available in an area it cannot be used in that area. Utilization must occur outside the area. On the other hand, the mere presence of a service in an area is not sufficient to guarantee that it will be used. Available services may not be used for many reasons. Services must be "accessible". To determine whether there is equality of access to legal aid services, it is necessary to look at the patterns of accessibility across the province.

Accessibility is a complex concept. The concept of accessibility has at least three major dimensions:

- availability
- awareness
- approachability

2.1 Availability

Availability is the foundation of accessibility. For a service to be accessible, it must be physically available. Offices and other service delivery points must be located so people who need legal aid can physically get the services. Physical availability is a particular problem in British Columbia. In any real situation services which are delivered to people who are dispersed across a large area cannot be equally available to all. Equity is an ideal. Some people will live closer to service delivery points and consequently enjoy higher levels of availability than those living farther away. In education, for example, some students live within walking distance of schools. For them education is easily available. Some students must be bussed or, a common occurrence in British Columbia, transported by boat. For these students, education is still available, but at a social and economic cost. Some students live so far away from a school that transporting them daily is not feasible and they have to board away from home. Educational authorities have to make decisions about locating schools to serve the maximum number of students possible at the highest level of convenience possible within an expenditure limit.

The LSS has a similar problem: How should offices be located? Where should Area Directors be appointed? What communities need circuits? When is it reasonable to assume that individuals can travel to get services? How can all of these locational considerations be handled within a fixed budget? These questions must be answered within a changing province. Some areas of the province are growing rapidly; other areas are stable; others are losing population. The actual locational decisions made by the LSS produce the availability characteristics of the legal aid delivery system.

2.1.1 Regional Patterns of Availability

Table 2-18 contains a list of the Regional availability characteristics of the legal aid delivery system. As can be seen from Table 2-18, the Regions vary in population. The Regions were created to conform to actual client flows and to take into account natural barriers (i.e. mountains and lack of roads). British Columbia's population is distributed in such a way that equally sized areal units are not practical. Greater Vancouver is the largest Region; the Cariboo Region is the smallest.

The number of legal aid contact points varied by Region. The evaluation identified three types of contact points. Primary contact points; secondary contact points; and tertiary contacts. Branch Offices, CLO/AD's, CLO's and Native CLO's were considered primary contact points. Primary contact points employ staff whose sole job is the delivery of legal aid. Area directors accept applications for legal aid tariff services and provide summary advice. Area directors are, however, members of the private bar and their practice involves more than the delivery of legal aid. They were therefore considered secondary contact points. The Northern circuit and the local circuits were considered tertiary contacts. Each community serviced through a circuit was considered a separate contact point. Circuits provide legal aid services to communities on a periodic basis and were considered, *a priori*, a lower level of service than area directors who, *while not* providing legal aid continuously, are at least continuously present in a community.

Table 2-18 contains a list of contact points by Region in 1981. As can be seen from the table, the Greater Vancouver Region had the greatest number of contact points with the Vancouver Island, Central Interior and Northern Region falling closely behind. The Northern Region had a large number of contacts because it has well developed local circuits but it had few primary contact points. The Central Interior and Vancouver Island were the other two regions with well developed circuit networks.

Two staffing ratios were calculated to help clarify the pattern of availability across the province. The first staffing ratio was calculated by totalling the number of LSS Branch Office staff, CLO staff and Area Directors in a Region, dividing this total by the population, then multiplying by 1000 to produce the total staffing rate per 1,000 persons. The second staffing ratio included only professional and paraprofessional staff in the count. That is, the total number of staff lawyers, paralegals and area directors in a Region was calculated then divided by the population and the result multiplied by 1000. These staffing ratios are shown in Table 2-18.

As can be seen from the table, the Greater Vancouver Region has the lowest staffing ratios. The Central Interior, Northern, North West Coast and Cariboo Regions had the highest staffing ratios, with the Cariboo having a ratio several times greater than the Greater Vancouver Region.

There was variation from Region to Region in the type of office available. For example, in the Central Kootenay Region, there was one primary contact office and three Area Directors. The only office in East Kootenay Region was terminated in the latest round of cuts. If this office is replaced with an area director, then the combined East Kootenay - Central Kootenay Regions, with a population base of over 130,000 people, will be served by one office and four Area Directors. In the Central Interior, a comparably sized Region, there were four offices and one Area Director before the round of cuts announced in the fall of 1983. One office, in Smithers, was terminated in that round of cuts. This region now has 3 offices compared to one in the Kootenays and one area director compared to three.

The location of offices was partially planned and partially an historical accident. The LSS was formed by an amalgamation of the Legal Aid Society and the Legal Services Commission. The Legal Services Commission itself had inherited the funding of the Community Law Offices from the

TABLE 2-18

REGIONAL AVAILABILITY PROFILE, 1981

	EAST KOOTENAY	CENTRAL KOOTENAY	OKANAGAN	KAMLOOPS INTERIOR	GREATER VANCOUVER	VANCOUVER ISLAND	CENTRAL INTERIOR	NORTH-ERN	N.W. COAST	CARIBOO
Population	32,675	80,668	198,978	96,088	1,320,992	441,407	117,291	46,387	60,506	51,616
Primary Contact Points	1	1	3	2	11	4	4	2	3.5	2
Branch Offices	(1)[6]	(1)	(2)[4,6]	(0)	(4)	(2)[5]	(1)	(2)	(1.5)[1]	(1)
CLO/AD'S	(0)	(0)	(0)	(1)	(2)	(1)	(1)[6]	(0)	(0)	(1)
CLO's & NCLO's	(0)	(0)	(1)	(1)	(5)[2,6]	(1)[5]	(2)	(0)	(2)[3]	(0)
Secondary Contacts Area Directors	1	3	2	1	5	1	1	2	1	0
Tertiary Contacts Circuits	1	1	0	2	1	8	5	6	1	2
Total Contact Points	3	5	5	5	16	13	10	10	5.5	4
Total Staffing Rate (total staff in offices and Area Directors per 1000 population)	.0949	.0868	.0568	.1145	.0439	.0544	.1586	.1294	.1735	.1841
Total Prof. staff (staff lawyers, para-legals and Area Directors per 1000 population)	.0570	.0620	.0377	.0624	.0248	.0329	.0989	.0862	.1074	.1162
Private lawyer rate (number of private lawyers per 1000 population)	.892	.496	1.000	1.103	2.015	1.176	.844	.819	.512	.407

[1] - Bella Coola ½-time lawyer included.

[2] - Includes special projects at Langley, North Vancouver and Richmond.

[3] - Masset and Skidegate offices in the Queen Charlottes are counted seperately.

[4] - The Vernon office which was just an intake office was counted separately as a contact point.

[5] - CLO and Branch Office in Nanaimo were merged into one office in the fall of 1983.

[6] - Announcement was made in Sept., 1983, that Offices in Smithers, Maple Ridge, Vernon and Cranbrook were to be closed.

Justice Development Commission. The locations of the original CLO's were the result of local initiative rather than any decisions about how best to serve the province as a whole. The LSS inherited two sets of offices which not only had different historical roots, but had, in many cases, overlapping natural service areas. Since amalgamation in 1979, the overlap has been reduced by merging some of the old CLO's with some of the old Legal Aid Society offices, creating CLO/AD Offices. Some CLO/AD's, however, have been created in communities which were served by Area Directors and CLO's. The creation of a CLO/AD was, therefore, often a major shift in the type of representational services available in a community. The staff pattern is not, nor could it be given the history of the LSS, the result of rational planning, but rather is the product of incremental changes after amalgamation.

Additionally, staffing rates can only be calculated when the population in an area is known. The census is taken every five years. The last census was taken in 1981 and information from it has been made available only recently. Since amalgamation in 1979, the LSS has had only limited background socio-economic data about the various regions of the province with which to work, greatly complicating their planning process. The 1981 census data should improve the information base and decision-making, but the LSS has done remarkably well at identifying high need Regions on a limited information base.

Staffing rates or ratios only make sense when they are considered in conjunction with demand for services and local conditions. As seen in the previous sections, some socio-demographic characteristics vary across the province. Another important factor that varies across the province is the ratio of members of the private bar compared to the number of people in an area. One stated reason why the LSS employs staff counsel in some areas is the lack of members of the private bar to take referrals. When staffing ratios were compared to lawyer - population ratios (Table 2-18) the congruence between these two sets of ratios was evident. With one exception, Regions with high staffing rates had low lawyer rates and Regions with high lawyer rates had low staffing rates. The one exception was the Central Kootenay Region which had both low staffing and low lawyer rates. This area stands out as a potentially underserved area.

Whether an area is actually underserved depends not only on the number of local lawyers, but the number of local lawyers willing to take legal aid tariff and pro bono cases. Table 2-19 contains counts of the number of lawyers in private practice in 1981. The count is based on published lists of members of local bars in private practice. Table 2-19 also contains 1983 Branch and CLO/AD Office estimates of the number of local lawyers accepting tariff and pro bono cases. The table includes office estimates of the ease with which they were able to make referrals. These estimates are based on office interview data. The Branch and CLO/AD estimates undercount the number of referral lawyers in a Region. Additional referrals are made through Area Directors. Referral lawyers used by Area Directors are not included in the table. Area Directors are usually located in small communities, so the underestimation may not be great.

Referral problems were reported by staff in six of the ten regions; eight of the 29 offices or about 30% of offices reported trouble referring tariff cases. Offices reported, in particular, difficulty referring complex criminal or family tariff work. Most offices reported problems getting local bar members to take pro bono civil work.

Finally, contact points and staffing ratios should be considered against what is known about the types of services provided by the different office types. Branch Offices and Area Directors primarily provided criminal legal aid representational services through staff handled cases and referrals to the private bar. CLO's provided mostly civil services. The type of office in an area, as well as the number of contact points, influenced what services were available. The distribution of civil non-family legal aid services was consequently greatly influenced by the location of CLO's. The CLO's in turn were frequently located where they were because of local initiative and not because of any assessment of provincial needs. In the coming decade the LSS will have to address the distribution of civil non-family services. They must first determine whether they want to deliver such services and, if they do, determine how such services can be delivered through the broader LSS service office network rather than primarily through the existing CLO network.

The LSS has, even in its limited life and with the difficulty of inherited office locations, managed to respond to some of the extreme needs in the province. When the contact information in Table 2-18 was transformed into rates, a strong pattern was evident. Table 2-20 contains contact points converted to the number of contact points per 10,000 population and staffing rates. As can be seen from the table, several Regions stood out as having a high contact point rate. The Northern Region, The Northwest

TABLE 2-19

PRIVATE BAR REFERRAL RATES

	PRIVATE BAR COUNTS (1981)	CRIMINAL TARIFF REFERRAL LAWYERS	FAMILY TARIFF REFERRAL LAWYERS	*PRO BONO* REFERRAL LAWYERS	REPORTED REFERRAL PROBLEMS FOR TARIFF CASES
East Kootenay	47	6	6	0	NO
Central Kootenay	40	22	25	25	NO
Okanagan	119	20	20	20	NO
Kamloops Interior	106	15	10	3	NO
Greater Vancouver*	2662	316	276	240	NO
Vancouver Island**	519	77	77	139	YES
Central Interior	99	24	8	1	YES
Northern	33	8	7	2	YES
North West Coast	31	5	3	0	YES
Cariboo	21	4	5	0	YES

* - Surrey office gave no estimates; Vancouver did not distinguish between Civil, Family and Criminal and estimated 232 in total.

** - Nanaimo and Campbell River offices made no estimates.

TABLE 2-20

CONTACT POINTS AND STAFFING RATES

	EAST KOOTENAY	CENTRAL KOOTENAY	OKANAGAN	KAMLOOPS INTERIOR	GREATER VANCOUVER	VANCOUVER ISLAND	CENTRAL INTERIOR	NORTHERN REGION	NORTH WEST COAST	CARIBOO
Total contact points per 10,000	0.57	0.62	0.25	0.62	0.12	0.29	0.75	2.16	0.91	0.77
Rank ordering of contact point rates	7	5	9	5	10	8	3	1	2	4
Primary Contact points per 10,000	0.19	0.12	0.15	0.31	0.08	0.09	0.31	0.43	0.58	0.39
Rank ordering of primary contact point rates	6	8	7	4	10	9	4	2	1	3
Staffing Rate per 1,000	0.09	0.09	0.06	0.11	0.04	0.05	0.16	0.13	0.17	0.18
Rank ordering of staff rate	6	6	8	5	10	9	3	4	2	1

Coast, the Central Interior and the Cariboo Regions stood out as high contact areas. Greater Vancouver stood out as a low contact Region. The Greater Vancouver Region ranked tenth out of ten in the total contact point rate, the primary contact point rate and the staffing rate. The Vancouver Island Region ranked ninth out of 10 Regions on these availability rates.

The high contact point Regions were areas with large proportions of their population falling into groups which may have large numbers of people who need legal assistance. Table 2-21 contains the rank ordering of these high contact areas on a series of socio-demographic characteristics. Since most socio-demographic measures are interrelated, ranking would generally tend to be similar across a Region. Considering the interrelationships, as can be seen from the table, the Northern, Central Interior and Cariboo Regions stand out as potential problem areas. The LSS generally has been reasonably successful in identifying problem areas and responding. The one exception might be the North West Coast Region. This Region ranked highly in contact points, but not that highly on the potential need measures. However, it ranked first in Native Indian population on Reserves.

At the other end of the spectrum the Vancouver Island and the Greater Vancouver Regions ranked an average of 8.1 out of 10 across the socio-demographic characteristics listed in Table 2-21.

At a Regional level, the LSS has been remarkably successful in matching resources to what appear to be problem areas. Their success was more limited at the ASA level. This should not be surprising. Resource allocation decisions are complex and become increasingly complex as decisions about resources for smaller and smaller geographic areas are made. Additionally, as mentioned before, good background data is only available through the census every five years, but resource decisions have to be made annually. Table 2-22 contains the rank ordering on census profile variables for the ASA's within the four highest contact rate Regions (the Northern, Central Interior, Cariboo and North West Coast Regions) and the lowest contact rate Region (Greater Vancouver).

2.1.2 External Availability Characteristics

Part of what makes a service available within a community is the location of an office providing the service and the ease with which people can locate and reach the

TABLE 2-21

RANK ORDERING OF REGIONS:
STAFFING/CONTACT RATES AND SOCIO-DEMOGRAPHIC CHARACTERISTICS

REGION	STAFFING RATE PER 1,000	CONTACT POINT RATE PER 1,000	UNEMPLOYMENT MALES-LESS THAN GRADE 9	MALES 15-19	MALES 20-24	SINGLE PARENTS CHILDREN UNDER SIX	MALES ON WELFARE	COURT-VIOLENCE RATE	COURT-PROPERTY RATE
East Kootenay	7	7	4	5	4	5	8	5	7
Central Kootenay	6	5	6	8	9	10	10	8	10
Okanagan	8	9	7	7	10	8	7	9	6
Kamloops Interior	5	5	5	4	6	4	4	6	5
Greater Vancouver	10	10	9	10	7	9	9	7	8
Vancouver Island	9	8	10	9	8	6	5	10	9
Central Interior	3	3	1	3	2	2	3	3	2
Northern	4	1	3	1	1	1	1	1	1
North West Coast	2	2	8	6	3	7	6	2	4
Cariboo	1	4	2	2	5	2	2	4	3

TABLE 2-22

RANK ORDER COMPARISON OF HIGH AND LOW CONTACT REGIONS DISAGGREGATED TO THE ADMINISTRATIVE SERVICE AREA

ADMINISTRATIVE SERVICE AREA	CONTACT POINT RATE RANK ORDER	UNEMPLOYMENT MALES LESS THAN GRADE 9	MALES AGE 15-19	MALES AGE 20-24	SINGLE PARENTS CHILDREN UNDER SIX	MALES ON WELFARE	COURT-VIOLENCE RATE	COURT-PROPERTY RATE
Northern								
Dawson Creek	2	4	4	3	3	1	2	1
Fort St. John	5	5	1	1	8	4	4	7
Central Interior								
Prince George	18	2	8	6	4	9	6	3
Burns Lake	1	12	7	4	19	*	1	*
Smithers	7	7	3	2	21	1	10	11
Hazelton	3	1	2	10	1	3	14	20
Cariboo	8	8	7	12	5	5	8	4
North West Coast	6	13	16	7	19	12	3	8
Greater Vancouver								
Abbotsford	19	21	5	5	16	*	20	19
Burnaby	24	24	25	8	23	21	24	24
Chilliwack	16	14	15	17	13	16	5	3
New Westminster	23	25	19	15	25	23	22	21
Powell River	10	18	23	25	20	14	17	26
Surrey	22	24	17	14	6	13	23	25
Maple Ridge	17	24	20	21	8	8	16	17
Vancouver	25	19	26	16	24	*	7	14

* Data were unavailable.

office. During June, 1983, site visits were made to 29 of the LSS offices and CLO's. Additional information was collected from one office in a non-site interview. No information was collected from one office. The totals in the tables vary between 28 and 29 depending on whether data were available on a specific point. During these visits observations were made about external availability characteristics. Observations were made about:

- The location of the office within the community;
- The location of the office with a building (ground floor, upper level);
- Handicapped access to the office;
- Public transit to the office;
- Public parking near the office;
- Opening hours;
- Visibility of signs and office; and
- Nearness of other government services (courts, social welfare offices, etc.).

There were marked differences in the external availability characteristics of offices. Some offices were easier to locate and to reach than others; some Regions had generally less accessible offices than others. Each external accessibility characteristic will be described, then overall patterns discussed.

2.1.2.1 Office Location

Table 2-23 contains the results of the site survey of 28 offices. Most offices were located, not surprisingly, in downtown retail/office areas. Most of these were located on the lower-rent edge of the downtown core or in a commercial/residential transitional zone. This seems to be a logical location both from the standpoint of obtaining good value for rent money and from the standpoint of locating in a part of the city or town near clusters of lower income groups. Only three offices had anomalous locations: one was located in a commercial strip; two were located in purely residential areas. The overwhelming locational choice for offices was low rent commercial or commercial/residential transitional areas.

The pattern of office location did not vary much by type of office or Region. About 70% of Branch, CLO/AD's and NCLO locations were in retail/office areas. CLO's were located equally in retail/office and transitional areas.

TABLE 2-25

TYPE OF NEIGHBOURHOOD WHERE OFFICE LOCATED

	DOWNTOWN RETAIL OFFICE	COMMERCIAL STRIP	ZONE IN TRANSITION	RESIDENTIAL	TOTAL
Office Type:					
Branch Offices	11	1	2	1	15
CLO/AD'S	4	0	2	0	6
CLO's	2	0	2	0	4
MCLO's	2	0	0	1	3
Total	19	1	6	2	28
Regions:					
East Kootenay	1	0	0	0	1
Central Kootenay	1	0	0	0	1
Okanagan	2	0	0	1	3
Kamloops Interior	1	0	0	0	1
Greater Vancouver	5	1	2	0	8
Vancouver Island	2	0	2	0	4
Central Interior	3	0	1	0	4
Northern	1	0	1	0	2
North West Coast	1	0	0	1	2
Cariboo	2	0	0	0	2
Total	19	1	6	2	28

In general, office location appeared to facilitate access to the office for potential clients. In interviews, almost all office staff said they believed that their location was a good one for clients. Staff in only one office expressed the view that the type of neighbourhood in which they were located was discouraging some potential clients, in this case elderly persons, from attending evening workshops and seminars.

2.1.2.2 Location within Building/Handicapped Access

Not only should a legal aid office be located near potential clients, it should also be located within a building so that it is easily found and accessible to handicapped clients. The most accessible locations are usually ground floor locations. Ground floor offices are usually more visible to passers-by and ground floor offices usually have easier wheelchair access.

More than half of all surveyed LSS offices and CLO's were located on street level, providing store front type access to clients (Table 2-24). CLO's appeared to have the clearest commitment to street level office locations (3 out of 4). Sixty percent of Branch Office locations were street level. There were two strong regional patterns worth noting because of their contrast: in the Greater Vancouver Region 88% of offices had street level location; by contrast, in the Vancouver Island Region, 75% of the offices had upstairs locations (including all Branch Offices). Of the eleven offices located upstairs, five indicated that there were serious access problems for people in wheelchairs. Staff in one upstairs office indicated that they were thinking of moving to a street level, store-front location.

Upstairs locations do not necessarily have poor wheelchair access, just as street level locations do not guarantee good access. Of the 11 upstairs offices, three had good wheelchair access with elevators and ramps. The remaining eight (73%) had very poor wheelchair access with no elevators and no ramps. Two of these expressed no concern or dissatisfaction with their lack of wheelchair access. The Kamloops office, with an entrance off a narrow stairway, and physically the most inaccessible of all offices for people in wheelchairs, handled what they recognized as a problem by making house calls. Of the 17 offices with street level locations, 15, or 88%, had good wheelchair access. Two offices had lawyers upstairs and in one of these offices there was no elevator. Overall, 9 of the 28 offices or about 30% had poor wheelchair access.

TABLE 2-24

FLOOR LEVEL

	STREET	UPSTAIRS
Office Type:		
Branch Offices	10	5
CLO/AD'S	3	3
CLO's	3	1
NCLO's	1	2
Total	17	11
========================	=========	============
Regions:		
East Kootenay	0	1
Central Kootenay	1	0
Okanagan	1	2
Kamloops Interior	0	1
Greater Vancouver	7	1
Vancouver Island	1	3
Central Interior	2	2
Northern	2	0
North West Coast	1	1
Cariboo	2	0
Total	17	11

Regionally, offices in Greater Vancouver had the best wheelchair access (88% of offices had good access). Half of the Vancouver Island and Central Interior Region offices had wheelchair access problems.

2.1.2.3 Public Transit

Lack of public transit is a major problem in British Columbia. It is a specific problem for the LSS offices and CLO's. Legal aid clients are poor. Ownership of an automobile cannot be assumed. In fact, the ownership of an automobile or truck is an asset a legal aid applicant must declare and may make an applicant ineligible for legal aid.

Of survey data available from 29 offices (Table 2-25), 28% or 8 of the offices said there was no public transit. Staff in one of these offices noted that half of all their clients needed transit to get to the office and either had to walk or hitch rides. Staff in one office observed that "Out here you need a car or truck to live." Lack of public transit, as might be expected, was a problem in the more rural areas of the province. Offices in the Central Interior, North West Coast and Cariboo Regions reported the most problems with lack of public transit. The areas close to the core cities of Vancouver and Victoria reported the best transit facilities. This should not be surprising. In those areas where public transit was more easily available, a higher proportion of clients used transit. Once again, this pattern should not be surprising. The variable availability of public transit reinforces the importance of allowing offices to make discretionary judgments about the assets of applicants when making eligibility determinations.

2.1.2.4 Parking Problems

Since many areas have no public transit and many clients must use cars, parking becomes a potential accessibility concern. However, 76% (22 of 29) of the offices had plentiful, easy to find automobile parking in the immediate vicinity. Of the 7 offices which had some parking problems, three had metered parking available on the street, but traffic levels were such that it would take a fair bit of hunting to find a parking place. Four offices (Vancouver, Victoria, and the two Nanaimo offices which were located in the same building) were located in urban core areas where the only feasible daytime parking was in expensive pay lots or parkades. These offices were, however, located in areas with the best overall public transit systems. Parking problems did not produce any accessibility problems for the LSS offices or CLO's.

TABLE 2-25

PUBLIC TRANSIT

	ESTIMATED % CLIENTS WHO NEED PUBLIC TRANSIT	BUS STOP WITHIN:			
		NO PUBLIC TRANSIT	2-3 BLOCKS	1 BLOCK	TOTAL
Office Type:					
Branch Offices	12.1%	2	1	12	15
CLO/AD'S	19.4%	2	1	3	6
CLO's	32.5%	0	1	3	4
NCLO's	12.5%	4	0	0	4
Total		8	3	18	29
Regions:					
East Kootenay	0.0%	1	0	0	1
Central Kootenay	10.0%	0	0	1	1
Okanagan	4.0%	0	1	2	3
Kamloops Interior	30.0%	0	0	1	1
Greater Vancouver	31.7%	0	1	7	8
Vancouver Island	27.3%	0	0	4	4
Central Interior	15.3%	3	0	1	4
Northern	1.0%	0	1	1	2
North West Coast	10.0%	2	0	1	3
Cariboo	0.0%	2	0	0	2
Total		8	3	18	29

2.1.2.5 Sign Quality

One measure of accessibility is the prominence of signs which announce the location of an office to the outside world. Signs are particularly important if proactive legal services are considered important. The general public's awareness of legal aid is, in part, tied to its awareness of an office.

Sign visibility was rated for the offices visited (29) during the 1983 office interviews. Signs were rated as follows:

- GOOD (can see and identify the office from half a block or more away)
- ADEQUATE (sign can be seen by persons passing by the office, but not from as far away as half a block)
- POOR (sign is small or obscured so that someone must actively look for the office in order to see the sign).

Overall, eleven offices had "good" signs; nine office signs were rated "adequate"; and nine office signs were rated "poor" (Table 2-26). Scoring 3 points for "good", 2 points for "adequate", and 1 point for "poor", the average sign visibility score was 2.07 points.

By office type NCLO's had the best overall sign visibility (score of 3.0) and CLO's had the poorest sign visibility (score of 1.6). Regionally, the East Kootenay, Northern and Greater Vancouver Regions had the poorest sign visibility scores. The Central Kootenays, Kamloop Interior, North West Coast and Cariboo Regions had the best sign visibility scores.

Some signs were misleading in a variety of ways. Signs at two offices proclaimed "Legal Aid Society" some four years after the merger of the Legal Aid Society and the Legal Services Commission. One office had a small sign that merely said "Law Centre" without any further indication of the availability of legal aid or other legal services. Few of the signs at CLO/AD's or CLO's made any mention of or gave any indication of the availability of legal aid tariff services at the office. Two offices in the Greater Vancouver Region had no external sign indicating their presence to the passer-by. To the extent that a legal aid practice ought to be solely directed toward prior clients

TABLE 2-26

SIGN QUALITY

1 = POOR
2 = ADEQUATE
3 = GOOD

	GOOD	ADEQUATE	POOR	TOTAL N	AVERAGE SIGN QUALITY SCORE
Office Type:					
Branch Offices	5	5	5	15	2.0
CLO/AD'S	3	1	2	6	2.2
CLO's	0	3	2	5	1.6
NCLO's	3	0	0	3	3.0
Total	11	9	9	29	2.07
Regions:					
East Kootenay	0	0	1	1	1.0
Central Kootenay	1	0	0	1	3.0
Okanagan	1	2	0	3	2.3
Kamloops Interior	1	0	0	1	3.0
Greater Vancouver	1	3	5	9	1.6
Vancouver Island	0	3	1	4	1.8
Central Interior	3	0	1	4	2.5
Northern	0	1	1	2	1.5
North West Coast	2	0	0	2	3.0
Cariboo	2	0	0	2	3.0
Total	11	9	9	29	2.07

and referrals and operate on a service-by-appointment schedule, this situation may be acceptable. To the extent that a legal aid practice ought to encourage walk-in services, the signage at these locations is unacceptable.

As an adjunct to signage, the Law Society and the Legal Services Society have provided excellent display advertising in telephone books throughout the province. One office in the Okanagan Region had moved. It was not at the address listed in the local telephone book. No apparent attempt had been made to advertise the new address.

While address identification though telephone books was good, sign visibility could have been significantly improved.

2.1.2.6 Office Opening Hours

One measure of office accessibility is the number and pattern of hours the office is open to clients during a normal week. Across the province, offices were open an average of 37.1 hours per week. There was considerable variability, however, in opening hours (Table 2-27). One office, a Branch office, was open to clients only 26.5 hours per week (9:30 a.m. to 3:30 p.m. Monday through Thursday, and 9:30 a.m. to 12:00 noon on Friday). Another office was open to the public only 28 hours per week. The limited hours in this office resulted from a job sharing arrangement necessitated by funding restraint. At the other end of the spectrum, six offices were open 42.5 hours per week.

Offices were open mostly during normal workday hours. The working poor might be able to visit a LSS office or CLO during lunch hour or in the evening or on a weekend. Fourteen of 28 offices (50%) shut down for at least one hour at lunch time. In all cases where offices closed, they closed between 12:00 noon and 1:00 p.m. Only three offices had evening hours and only two made Saturday appointments.

There was no consistent pattern of opening hours either by office type or by Region, nor does there appear to be any reason for the pattern of hours. Accessibility would be improved with more office hours or a rational matching of office hours to local conditions. The limited number of offices with evening or Saturday hours indicates some lack of adaptability.

2.1.2.7 Nearby Social Services

The LSS offices and CLO's delivered services within a network of socio-legal service agencies. Staff made referrals to governmental agencies and received referrals

TABLE 2-27

NUMBER OF HOURS PER WEEK OFFICE IS OPEN

	AVERAGE NUMBER OF HOURS OPEN PER WEEK	NUMBER OF OFFICES	NUMBER OF OFFICES WITH EVENING HOURS	NUMBER OF OFFICES WITH SAT. APPT. SCHEDULE	NUMBER OF OFFICES CLOSED FOR LUNCH
Office Type:					
Branch Offices	36.93	14	1	0	8
CLO/AD'S	37.58	6	2	0	2
CLO's	38.75	4	0	0	1
NCLO's	36.25	4	0	2	3
ALL OFFICES TOTAL	37.1	28	3	2	14
Regions:					
East Kootenay	35.0	1	0	0	1
Central Kootenay	37.5	1	0	0	1
Okanagan	37.5	2	0	0	1
Kamloops Interior	42.5	1	0	0	0
Greater Vancouver	36.75	8	2	0	2
Vancouver Island	40.1	4	1	0	1
Central Interior	37.0	4	0	2	2
Northern	35	2	0	0	2
North West Coast	34.2	3	0	0	3
Cariboo	38.75	2	0	0	1
Total	37.1	28	3	2	14

from them. During the site visit nearby social services were identified. Table 2-28 contains a list of services and the number of offices located near the services. "Nearby" was defined as within two or three blocks. As can be seen in the table, most offices were not located close to many other services. There were several possible reasons for this. First, the LSS offices and CLO's were present in many communities that lacked other services (see section 1.1.5, Justice System Profiles). Second, the LSS offices and CLO's were located primarily in low rent areas. Many other govermental services were located in higher rent areas of towns or higher rent buildings. Some governmental services were located in almost all communities with LSS or CLO offices. Services provided in provincial courthouses, Ministry of Human Resources offices and Unemployment Insurance Offices were more frequently found near the LSS offices or CLO locations.

The lack of fit between the LSS locations and other governmental services was the result of many separate organizations making separate locational choices. When directors of the LSS offices and CLO's were asked why their offices were located where they were, the most frequent response (Table 2-29) was that the office was "close to the courthouse" (46% or 13 of 28 offices). The "central location" of the office space and the "availability of space when needed" were each cited by 11 office directors (39% of offices). Three office directors said their office location was chosen to be near a large population of potential clients. A variety of unique reasons were given for office locations. One office had been a staff lawyer's office when he was in private practice. One office shared space with another LSS funded office. Two offices cited "good office layout", "more space", and "windows" as reasons for the current location. Only one office cited the closeness of a public transit node as a reason for its location. Only one office mentioned good wheelchair access.

In any locational choice there are trade-offs. In the LSS office and CLO location choices variable criteria were clearly being used. While the LSS is wrestling with "macro" problems of funding locational choices seem like minor concerns. In the future the Board might consider developing criteria for office location.

2.1.2.8 Staff Satisfaction with Office Location

Despite a variety of locations and reasons for choosing locations, staff lawyers and paralegals or legal information counsellors indicated they were satisfied with their respective locations. Staff in 25 of 28 offices said they

TABLE 3-28

RANK ORDER OF PARTICULAR TYPES OF SERVICES IDENTIFIED AS "NEARBY" BY OFFICES

RANK	TYPE OF SOCIAL SERVICE	NO. OF OFFICES GIVING RESPONSE	PERCENTAGE OF OFFICES
1	Ministry of Human Resources	10	35.7%
2	None "Nearby"	8	28.6%
2	Courthouse	8	28.6%
4	Hospital	6	21.4%
4	Unemployment Insurance Office	6	21.4%
6	Full Range of Fed. and Prov. Agencies	3	10.7%
7	Community Service Agency	2	7.1%
7	Police Stations	2	7.1%
7	Probation Office	2	7.1%
10	Crown Counsel's Office	1	3.6%
10	Rentalsman's Office	1	3.6%
10	Insurance Corporation of B.C.	1	3.6%
10	Provincial Government Offices	1	3.6%
10	Provincial Agent	1	3.6%
10	City Hall	1	3.6%
10	Indian Centre	1	3.6%
10	Youth Centre	1	3.6%
10	Consumer Counsellor	1	3.6%

TABLE 3-29

REASONS WHY OFFICE LOCATED WHERE IT IS LOCATED

	CENTRAL LOCATION	CLOSE TO COURTHOUSE	LOW RENT	AVAILABLE WHEN NEEDED	NEAR CLIENT POPULATION	OTHER
Office Type:						
Branch Offices	5	8	5	5	2	5
CLO/AO'S	5	3	3	3	0	2
CLO's	0	0	3	2	0	2
NCLO's	1	2	1	1	1	0
Total	11	13	12	11	3	9
Regions:						
East Kootenay	1	1	0	0	0	0
Central Kootenay	0	0	0	0	0	1
Okanagan	0	0	1	1	0	1
Kamloops Interior	1	1	0	0	0	0
Greater Vancouver	5	4	3	3	1	2
Vancouver Island		3	1	1	0	1
Central Interior	1	2	2	2	0	2
Northern	0	1	0	0	1	2
North West Coast	0	1	2	2	1	0
Cariboo	1	0	2	2	0	0
Total	11	13	12	11	3	9

were satisfied with current office locations (89%). Remarks by staff included: "good handicapped access", "clients like the atmosphere in this office", "this is the best location in the area", and "everybody knows this location".

Some interviewed staff indicated that, while they were generally satisfied with the office location, it was not perfect. Staff in five offices talked about poor access for wheelchairs; staff in one office talked about the distance they were from the court; staff in another office indicated that clients were reluctant to come to that part of town at night.

Staff in two offices noted that their location screened out walk-in clients. Interestingly, staff in one of these offices said this was a good aspect of the office's location, while staff in the other office said this was a bad aspect of office location.

Staff in only three offices were dissatisfied with their locations. The reason given in two of the offices was their location at the boundary of a large geographic service area making them inaccessible or making access difficult for many people. Staff in the third office were concerned that their location on a Native Indian reserve made non-Native Indians reluctant to use their services.

2.1.3 Staff Ratings of Office Accessibility

Staff were asked to identify the communities their offices served and to assess the overall accessibility of their offices to those communities on a scale of 1 to 10. Across all offices, a total of 148 communities were named. Offices only rated communities they thought they served. Communities unserved by any office were not rated. The self-defined office rates are biased upward because they reflect the communities currently served. The average accessibility score was 5.7. The scores varied little by office type. Branch offices estimates were highest at 5.9; NCLO estimates were lowest at 5.3 (Table 2-30).

The range in average accessibility scores by Region was more substantial. Offices in the Kamloops Interior estimated the highest accessibility scores for the communities they served (7.4). The lowest overall accessibility scores were given by the offices in the Central Interior Region (3.8).

The estimated community access to the Legal Service Society offices and CLO's followed a general distance decay pattern - the farther a community was from the location of

TABLE 2-38

STAFF ESTIMATES OF OVERALL OFFICE ACCESSIBILITY TO THE COMMUNITIES THEY SERVE

	ACCESS SCORE	NUMBER OF COMMUNITIES SERVED
Office Type:		
Branch Offices	5.9	83
CLO/AD'S	5.4	28
CLO's	5.5	19
MCLO's	5.3	18
Total	5.7	148
========================	=========	============
Regions:		
East Kootenay	6.2	6
Central Kootenay	4.3	6
Okanagan	6.0	13
Kamloops Interior	7.4	8
Greater Vancouver	6.6	34
Vancouver Island	5.5	23
Central Interior	3.8	24
Northern	6.2	13
North West Coast	5.9	11
Cariboo	5.3	10
Total	5.7	148

the office, the lower the estimated access score. The general pattern was modified by topography - several communities were seen to have low access, despite being close, because "you can't get through from there in winter", or because of the character of the highway and transport network.

2.1.4 Overall External Availability

External availability characteristics can be broken down into two categories: those that could be controlled by the LSS and those that could not. The LSS cannot create good public transit systems or build roads or control winter. The LSS can, at least potentially, control office location, signs, and opening hours.

The characteristics described in the previous sections were collapsed into one table to attempt to provide an overall picture of the external accessibility characteristics of office types and Regions. Overall rates of "good", "adequate", and "poor" were used. These ratings should not be considered absolute judgments, but more a rank ordering of office types and Regions. Table 2-31 contains the definitions used in the ranking. "Good" should be considered better than "adequate" and "adequate" better than "poor". Table 2-32 contains the ratings.

For those accessibility characteristics that the LSS cannot control (public transit and community location, weather and road networks measured by perceived access), the Central Interior Region stood out as the worst. It should be noted, however, that part of this pattern of inaccessibility was based on "self-ratings" and standards by which ratings were made may vary by Region and office.

For those characteristics that could be controlled (location, signs and hours), several patterns were evident. First, no one type of office stood out as better on the controllable characteristics. Overall, all types of offices were rated "poor" in the provision of special opening hours. NCLO's were rated poor in office location within buildings. Two of the three offices visited were upstairs while only one was on ground level. By Region, the East Kootenay's only office had the poorest external accessibility rating. This office, in Cranbrook, was closed in the latest round of budget cuts. The two offices in the Cariboo, one in Quesnel and the other in Williams Lake, had the best external accessibility rating, followed closely by the Nelson office in the Central Kootenay Region.

TABLE 3-31

OVERALL EXTERNAL AVAILABILITY
RATING RULES

RATING RULES	
Street location:	- Good if over 50% of offices on ground floor - Adequate if 50% on ground floor - Poor if less than 50% on ground floor
Public Transit:	- Good if over 50% of offices were accessible by public transit - Poor if under 50% of offices accessible by public transit
Sign Quality:	- Good if over 50% of office signs rated as good - Adequate if over 50% of office signs rated as adequate or good - Poor if over 50% of office signs rated as poor
Opening Hours:	- Office type, all rated adequate since little variation Regions: - good if one of top 3 Regions - adequate if in middle 4 Regions - poor if in bottom 3 Regions
Special Hours: (evenings & weekends)	- Good if more than 50% had special hours - Poor if less than 50% had special hours
Perceived Access:	- Good if self rating over 6 - Adequate if self rating between 4 and 6 - Poor if self rating below 4

TABLE 3-32

OVERALL EXTERNAL AVAILABILITY RATINGS

	UNCONTROLLABLE		CONTROLLABLE			
	PUBLIC TRANSIT	PERCEIVED ACCESS	OFFICE LOCATION (UPSTAIRS/ DOWNSTAIRS)	SIGN QUALITY	OPENING HOURS	SPECIAL HOURS
Office Type:						
Branch Offices	Good	Adequate	Good	Adequate	Adequate	Poor
CLO/AD'S	Good	Adequate	Adequate	Good	Adequate	Poor
CLO's	Good	Adequate	Good	Adequate	Adequate	Poor
NCLO's	Poor	Adequate	Poor	Good	Adequate	Poor
Regions:						
East Kootenay	Poor	Good	Poor	Poor	Poor	Poor
Central Kootenay	Good	Adequate	Good	Good	Adequate	Poor
Okanagan	Good	Adequate /Good	Poor	Adequate	Adequate	Poor
Kamloops Interior	Good	Good	Poor	Good	Good	Poor
Greater Vancouver	Good	Good	Good	Poor	Adequate	Poor
Vancouver Island	Good	Adequate	Poor	Adequate	Good	Poor
Central Interior	Poor	Poor	Adequate	Good	Adequate	Adequate
Northern	Good	Adequate	Good	Adequate /Poor	Poor	Poor
North West Coast	Poor	Adequate	Adequate	Good	Poor	Poor
Cariboo	Poor	Adequate	Good	Good	Good	Poor

Several steps could be taken to improve external accessibility. Moving offices has major cost implications and, in a time of restraint, is not likely. Additionally, many communities have limited rental space available. Signage, general opening hours and special opening hours are, however, controllable even in a time of restraint.

LSS should consider developing a standard information set which should appear on every sign and some rules about signage. While municipal by-laws and landlords set parameters for signs, there is still room to develop more uniformity if LSS wants people to know that legal aid tariff services and other advice and information services are available. The problem of signage is particularly severe with the mixture of office types. While Branch Office signs were not uniform, two in fact still said "Legal Aid Society", there was at least the potential of a recognizable name.

Some CLO/AD'S, CLO's and NCLO's had unique names which had only a tenuous link to current service delivery patterns. Some of the CLO/AD, CLO and NCLO names were:

- Abbotsford Community Services Society
- Kamloops Regional Law Centre Association
- A.I.D. Community Law Centre
- Westminster Community Legal Services Society
- Penticton Legal Services
- Powell River Civil Liberties Society
- Quesnel Human Rights and Civil Liberties Association
- The Law Centre (Victoria)
- Haida Counselling and Legal Assistance Society
- Nicola Valley Counselling Centre
- Upper Skeena Counselling and Legal Assistance Society

Little can be inferred about services from these names. In fact two have names that do not even include the words law or legal. Two office names which included the words "human rights" or "civil liberties", reflected more about their historic roots than any services they were providing.

Hours varied considerably. The LSS should also consider some local surveys to determine good hours for potential clients. Asking existing clients is not sufficient. Current clients found the office and managed to get there during office hours. The concern is over individuals who could not find the office or could not arrange hours to get there. Office hours are a particular concern when considering the LSS's mandate to deliver advice and information to all residents of British Columbia. Office hours that match common business hours, including closing during lunch hour, make offices inaccessible to many individuals, both the working poor and the unemployed.

2.2. AWARENESS

Not only must a service be available if it is to be used, potential users must be aware of the service. One characteristic of an office that influences the potential user's awareness is advertising. A basic type of advertising, signage, was discussed in the previous section. Other major ways individuals are made aware of legal aid services are through Public Legal Education (PLE) programs, through advertising in the media, and through development of a referral network.

PLE can be used to provide advice and information services to groups. PLE, in addition, potentially increases the public's awareness of legal aid. As described in Chapter 1, most of the LSS offices and CLO's spent only limited amounts of time on PLE. All offices primarily concerned themselves with the delivery of direct client services. While the general pattern involved very little PLE, there was some variation across offices in the type and volume of PLE activity. The variation will be described in this section. The variation in PLE advertising and other media usage will also be described.

Individuals become aware of legal services through referrals from both governmental and private groups. The location of a LSS office or CLO within a referral network has, potentially, a great influence on who actually comes to an office for services. The location of the LSS offices and CLO's within local referral networks will also be described in this section.

Three major data sources were used to analyze awareness patterns. One source was the office surveys previously described and used extensively in the previous section. A second source was client and applicant surveys. About 700 people, both applicants for legal aid tariff services and applicants seeking summary advice, were interviewed by telephone. All but three of the LSS offices and CLO's sampled their applicants, obtained interview consents from applicants, and submitted the names and phone numbers of both consenting clients and consenting rejected applicants to the research team. Office sampling was done sequentially. The process of obtaining consents started on

October 30, 1982, and terminated when the office had obtained sufficient consents to match their proportional share of the total number of interviews. Proportions were based on relative case loads. Most LSS offices and CLO's were willing to obtain consents from applicants.

Two offices, for different reasons, declined to co-operate. These offices (Powell River and Quesnel) therefore had no clients included in the sample. Inferences about clients cannot be made for these offices. This should, in particular, be kept in mind while reading the third chapter of the report which describes client and applicant satisfaction. Several comments should be made about the lack of willingness of these offices to participate in the client survey. From an evaluator's perspective their reluctance seems shortsighted. The offices were given assurances that information about client views would not be reported at an office level and that no individual office information would be reported to Head Office administrators. As will be reported in the next chapter, clients were very happy with the legal services they received. We do not know nor can we assume that clients in Powell River, Quesnel and Merritt were similarly satisfied and happy about services.

The third source of data was the LSS's computerized information system. In all applications for legal aid tariff services applicants were asked who referred them to the office. The pattern of referral revealed much about how staff at local service offices were imbedded within the local justice/social service network.

2.2.1 Public Legal Information and Advertising

Public Legal Education, for the purposes of this evaluation, included formal education and information programming put on by local offices. It did not include activities by Head Office. PLE activities ranged from appearances on local television shows, to article writing for newspapers, to formal workshops. Advertising activities included advertising PLE activities and advertising the LSS legal services.

As noted in Chapter 1, PLE activities at the local office level were limited. The volume of activities ranged from zero (in seven offices) to a reported 104 separate activities in a year in the Abbotsford office. New Westminster reported 50 to 60 programs and Victoria reported 90. The overall average was 19 program activities, but this average was skewed by Abbotsford's activities. CLO's and NCLO's averaged 15 PLE programs a year while Branch offices averaged 10 a year.

The major PLE programs were in the areas of family law, women's rights, consumer law, and law for students. Sixty-eight percent of all offices put on at least one family law program a year; forty-six percent put on a women's rights program; and thirty-nine percent put on a consumer law program and a school program. Programs covering debt problems, wills and estates, landlord and tenant problems and Ministry of Human Resources problems were also put on. Less than 20% of offices put on programs about youth and the law, criminal law, or Native Rights and the Indian Act. About 20% of offices held information and referral clinics.

Little effort was made to advertise PLE programs or services in general. In fact, under current conditions advertising was seen by many offices as counter productive. Twenty-two of 28 offices surveyed, or 79%, said additional advertising for PLE specifically and for legal aid generally would be counterproductive because the offices could not handle additional caseflow since the office staff was already working to capacity. Only one office said it could handle more cases. Half of the offices thought that more advertising would cause high levels of community frustration because additional clients could not be served. Staff in one office indicated that they believed increased advertising would cause resentment in the local legal communities. A few offices, however, believed that more advertising would clear up public misunderstanding caused by restraint programming. They thought that residents believed the LSS had "gone out of business".

While most PLE activity was limited, there were several local innovations worth mentioning. A major argument for decentralization of control in an organization is the increased likelihood of innovation in service delivery. Little PLE innovation was found except for the following four programs:

- Quesnel Human Rights and Civil Liberties Association

  Quesnel maintained a legal lending library of more expensive booklets and books which people could borrow within the context of an advice and information service.

- The Law Centre of Victoria

  Victoria videotaped PLE programs and maintained a tape library of "good" programs that were lent out to groups.

- Nanaimo Branch Office

  The Branch Office in Nanaimo gave consumer clinics at a local mall and ran a local radio hot line show while a clinic was in progress.

- The Law Centre of Victoria

  Victoria also gave the full People's Law School syllabus in a series of courses.

It should be noted that the Law Centre of Victoria was a fairly unique office since it was affiliated with the University of Victoria and consequently had more resources to draw upon than most local offices.

Across office types there was some variation in PLE programs (Table 2-33). Branch offices primarily engaged in reactive PLE, that is, staff who were interviewed said they only engaged in PLE activities on request. NCLO's and CLO's, in fitting with their origins, more frequently initiated their own PLE programs. CLO/AD offices, as with most other characteristics, fell between Branch offices and CLO's in the proactivity of their PLE programs.

The surveyed staff, somewhat in contrast to low levels of advertising, estimated that levels of community awareness of their services were above average (Table 2-33). Given the opportunity to rate awareness from "1" for very low, to "2" for low, "3" for average, "4" for high and "5" for very high, most gave average to high ratings. Across the office types Branch offices gave the highest awareness ratings (4.8). NCLO's came second with 4.5. Both CLO's and CLO/AD's were around 3.7. Surprisingly, the office type with the least proactive PLE approach estimated higher community awareness ratings than more proactive offices.

Regional patterns of PLE matched the pattern of distribution of office types. Those areas served primarily by NCLO's or CLO/AD's had higher proactive PLE rates. Branch office and CLO areas had lower rates. Otherwise, Regionally there were no strong community awareness patterns.

2.2.2 Applicant Awareness of Program Cut

The lack of impact of advertising can best be seen in the lack of awareness of the individuals interviewed about recent changes in legal aid coverage, the user fee and changes in financial eligibility rules (Table 2-34). Client

TABLE 2-33

PLE ACTIVITY

	REACTIVE PLE*	COMMUNITY AWARENESS [VERY LOW (1) VERY HIGH (5)]
Office type:		
Branch Offices	100 %	4.8**
CLO/AD'S	86 %	3.67
CLO's	50 %	3.75
NCLO's	0 %	4.5
Regions:		
East Kootenay	100 %	5.0
Central Kootenay	100 %	4.0
Okanagan	50 %	3.5
Kamloops Interior	100 %	3.0
Greater Vancouver	65 %	4.3
Vancouver Island	75 %	4.0
Central Interior	25 %	4.25
Northern	100 %	5.0
North West Coast	33 %	4.33
Cariboo	100 %	4.5

* Only engaged in PLE on request. The total number of offices responding in the interview was used as the base for this percentage, not just those offices engaging in PLE.

** One office did not do the rating. This office did no PLE.

Table 2-34

APPLICANT AWARENESS OF LSS PROGRAM CHANGES AFTER THE OCTOBER 1, 1982 CUTS

Application Status	Aware	Not Aware
Accepted Criminal	24.6%	75.4%
Accepted Family	34.2%	65.8%
Accepted Civil	39.0%	61.0%
Rejected Criminal	29.5%	70.5%
Rejected Family	60.0%	40.0%
Rejected Civil	42.3%	57.7%
Summary Advice ONLY	9.6%	90.4%

interviews were conducted primarily in the period immediately following the first round of cuts. Awareness may have increased as cuts continued. The first round of cuts in legal aid received extensive media coverage. It is unlikely that an office could afford an advertising campaign as extensive as the media coverage of the recent cuts in legal aid services. Yet with all the media coverage less than 10% of the surveyed individuals who went to a LSS office or a CLO for advice or short services were aware of any changes in legal aid services. Individuals applying for representational services were more aware of cuts than individuals seeking summary advice only, but in no problem area were more than 40% of the accepted applicants aware of changes. Rejected applicants were slightly more aware of program cuts than accepted applicants, but these individuals had been rejected for representational services and in many cases were probably told that they were rejected because of recent cuts in service.

Those individuals who were aware of changes were asked to identify what they thought had changed. Eighty-six percent mentioned reduced coverage. Only 8% mentioned user fees even though they were in effect and supposed to be collected by the lawyer handling the case, an indication that lawyers accepting legal aid cases rarely attempted to collect a user fee. Another 6% mentioned other changes, mostly incorrectly.

Applicants were asked a series of factual questions about legal aid services. The applicants showed less knowledge as questions became more specific. When asked if there were any rules governing the types of legal problems covered by legal aid, most responded incorrectly, saying "no". (Table 2-35).

Interestingly, when asked if it would be fair for people to pay something for services received from legal aid assuming they were given time to pay, over 80% of accepted and rejected applicants, and, for some categories of coverage, over 90%, indicated it would be fair (Table 2-36).

2.2.3 Referral Networks

A major way applicants for tariff services come to a LSS office is through client referral from other agencies and people at large. For individuals referred to a legal aid office, signs, office locations on the ground floor and other characteristics of external accessibility are less important than for clients who walk in off the street. The pattern of referral gives an indication of how the staff at

TABLE 2-35

APPLICANT AWARENESS OF PROBLEM COVERAGE RULES

APPLICATION STATUS	YES	NO
Accepted Criminal	10.2%	89.9%
Accepted Family	14.2%	85.8%
Accepted Civil	10.0%	90.0%
Rejected Criminal	17.1%	82.9%
Rejected Family	45.9%	54.1%
Rejected Civil	29.0%	71.0%
Summary Advice	14.6%	85.4%

TABLE 2-36

APPLICANT VIEWS OF CO-PAYMENTS

APPLICATION STATUS	VERY FAIR	FAIR	UNFAIR	VERY UNFAIR
Accepted Criminal	11.3	74.2	9.7	4.8
Accepted Family	18.3	64.3	13.9	3.5
Accepted Civil	19.5	70.7	9.8	0.0
Rejected Criminal	13.8	78.5	6.9	.8
Rejected Family	17.7	68.5	11.3	2.4
Rejected Civil	12.5	79.2	6.9	1.4

a local office fits into local inter-organizational networks. The accessibility of a LSS office or CLO and, consequently, its services depends in part on the awareness of other professionals about the office and services and on their willingness to refer individuals to the office.

Referral networks were examined in two ways. The computerized records of tariff referrals to lawyers, which also record information about agencies that referred the client to Legal Services, were analyzed to see if differential agency referral patterns existed. The referral patterns examined were those at work before restraint programming. Additionally, staff were asked to rate their relationships with a series of potential client referral sources. The analyses found strong referral networks at the local level in most locations.

2.2.3.1 Regional Referral Patterns

The computerized records have eleven categories for sources of referrals:

- Police
- Judges
- Lawyers
- Duty Counsel
- Probation Officers
- Social Workers
- Courtworkers
- Family/Friends
- Radio/T.V.
- Newspapers
- Other

Applicants were asked to indicate "how they heard about" the Legal Aid Society. Most categories are self-explanatory, but a few comments are necessary. No separate category existed, unfortunately, for yellow pages in telephone books. The courtworker category included Native Court Workers, Salvation Army personnel, Elizabeth Fry personnel and other organizations working at courthouses. Finally, while the question put to applicants did not distinguish between how the client initially learned about legal aid and referrals for specific problems, the response choices given applicants pushed the question in the direction of asking about referral sources for specific problems.

There was substantial Region to Region variation in referral patterns for criminal tariff coverage. On about 24% of the application forms, no referral source was recorded (Table 2-37). Referral service analysis was limited to those application forms on which a referral source was recorded. The greatest variability was in referrals from courtworkers. In the Central Kootenays only 1.7% of referrals came from courtworkers, while in Greater Vancouver the proportion was 45.4%. Part of the variation in referrals from courtworkers was the result of the presence or absence of Native Court Workers in local courts. For example, the Central Kootenay region had a low Native Indian population and no Native Court Workers. Vancouver Island, on the other hand, had Native Court Workers in all communities with LSS offices. All Regions except the Central Kootenays had at least one location with a Native Court Worker. Salvation Army Correction Services were available in large volume courts. In lower volume courts Salvation Army services were available through the Salvation Army's Social Services Department or through their local ministers. A broader base of services was available in those courts with Salvation Army members present full time.

Across the province 34.6% of referrals of accepted criminal tariff clients came from courtworkers. The second most common referral source was lawyers with about 16% of referrals. The proportion of cases referred by lawyers was more evenly distributed across regions than the proportion of cases referred by courtworkers. Family and friends were the third most common source of information about legal aid.

The lack of advertising by LSS offices and CLO's is reflected in the referral patterns. No Region had more than a negligible number of clients who found out about legal aid through radio, television or newspapers.

The referral pattern was different for clients under the family tariff (Table 2-37). Family and friends were the major source of information about legal aid. Social workers and lawyers were, respectively, the second and third most frequent source of knowledge. Once again the media proved to be a minor information source. Regionally there was less variation in referral sources for family tariff clients than for criminal tariff clients.

2.2.3.2 Administrative Service Area Referral Patterns

The variation in Administrative Service Area referral networks was, as might be expected, greater than the Regional variation (Table 2-38). In the criminal area in

TABLE 2-37

CLIENT REFERRALS TO TARIFF PROGRAM

CRIMINAL

OFFICE REGIONS

RECORDED SOURCES	EAST KOOTENAY	CENTRAL KOOTENAY	OKANAGAN	KAMLOOPS INTERIOR	GREATER VANCOUVER	VANCOUVER ISLAND	CENTRAL INTERIOR	NORTHERN	NORTH WEST COAST	CARIBOO
Police	14.8	12.9	11.4	8.4	5.6	10.3	5.3	16.1	7.0	4.5
Judge	9.8	7.6	4.2	6.7	3.8	5.6	4.1	6.1	7.2	5.3
Lawyer	22.2	28.5	24.8	19.4	13.5	20.1	13.4	15.0	18.4	11.5
Duty Counsel	3.4	2.0	10.9	12.9	6.2	20.6	8.1	5.0	1.1	4.1
Prob. Officer	4.4	5.3	5.4	3.6	3.1	4.9	2.7	4.3	2.6	2.3
Social Worker	3.7	2.3	2.8	2.5	1.9	2.2	2.3	2.5	0.8	1.4
Court Worker	7.1	1.7	13.2	19.9	45.4	8.3	39.1	15.7	29.8	41.9
Family/Friend	24.6	27.5	19.9	18.4	12.0	19.7	17.4	27.9	18.7	18.6
Radio / T.V.	0.3	0.7	0.9	0.6	0.5	0.5	0.4	0.4	0.3	0.3
Newspaper	1.0	1.7	0.5	0.7	0.5	0.7	0.6	0.4	0.5	1.1
Other	8.8	9.9	6.1	6.9	7.4	7.0	6.6	6.8	13.6	9.2

FAMILY

OFFICE REGIONS

RECORDED SOURCES	EAST KOOTENAY	CENTRAL KOOTENAY	OKANAGAN	KAMLOOPS INTERIOR	GREATER VANCOUVER	VANCOUVER ISLAND	CENTRAL INTERIOR	NORTHERN	NORTH WEST COAST	CARIBOO
Police	3.8	2.4	2.6	3.9	2.7	3.3	2.1	2.9	2.2	3.0
Judge	2.9	0.3	0.2	1.3	1.6	0.9	1.4	0.0	0.7	0.9
Lawyer	19.5	33.1	20.4	16.8	17.3	17.6	15.3	15.4	16.3	11.6
Duty Counsel	1.0	0.3	1.0	0.8	1.2	1.2	0.5	1.2	0.6	0.9
Prob. Officer	7.6	6.3	3.9	3.7	1.2	1.6	1.4	3.7	5.9	4.6
Social Worker	22.4	17.4	23.0	18.1	22.4	22.4	24.3	16.2	18.9	16.5
Court Worker	6.2	4.2	6.2	9.6	8.0	5.2	8.5	11.2	8.1	7.9
Family/Friend	25.7	22.0	29.6	31.1	29.3	35.8	32.2	38.2	36.3	36.0
Radio / T.V.	1.0	0.7	1.6	1.6	1.4	1.2	1.4	1.7	0.4	0.3
Newspaper	1.9	1.0	0.9	1.6	1.4	1.5	1.4	0.4	1.9	0.6
Other	8.1	12.2	10.7	11.4	13.5	9.3	11.5	9.1	8.9	17.7

some ASA's, offices got a significant proportion of their referrals from courtworkers; in others, courtworkers were not an important part of the referral network. In the Williams Lake, Vancouver, Smithers and Burnaby ASA's, over 40% of recorded referrals were from courtworkers. In the Campbell River, Cranbrook, Dawson Creek, Kelowna, Nanaimo, Nelson, Penticton, Surrey, Vernon and Victoria ASA's under 20% of criminal tariff cases were referred to the LSS tariff program by courtworkers.

Part of the variation is the result of location of Native Courtworkers, Native populations, and the location of various types of Salvation Army personnel in local courts. Part of the variation is most likely tied to the relationship of local LSS staff with local courtworkers and Salvation Army personnel.

There were surprisingly few referrals to the LSS tariff program from duty counsel. The proportion of cases referred to the LSS from the duty counsel function ranged from a high of 25% in the Victoria ASA to a low of under 1% in the Penticton ASA. The duty counsel function was not handled uniformly across the province. In some areas private lawyers provided duty counsel services on a per diem basis. In other areas staff counsel acted as duty counsel. Sometimes paralegals acted as duty counsel. In some courts duty counsel was located in the courtroom or office space was provided in the court building. In other locations duty counsel set up in another building. Finally, in some locations duty counsel waited to be called by the police or by the court and were only available if called.

The Legal Services Society specifies in its Policies and Procedures Handbook what duty counsel should do. The manual defines pre-restraint functions. The primary function of duty counsel is to ensure what every accused person who is in custody pending a first appearance in court is given an opportunity to talk to the duty counsel. The manual specifies that duty counsel attend lock-up; interview accused; advise the accused of his or her legal rights; and appear in court on behalf of the accused. The manual also specifies, though clearly as a lower priority, that duty counsel should take applications for legal aid from persons in custody. In courts with Salvation Army courtworkers, the courtworkers take the applications, not the duty counsel. In interviews with staff who provided duty counsel services, taking legal aid applications was rated substantially less important than other duty counsel functions.

TABLE 2-38

PROPORTION OF CASES REFERRED FROM DIFFERENT SOURCES TO A.S.A.

CRIMINAL

RECORDED SOURCE	ABBOTSFORD	BURNABY	CAMPBELL RIVER	QUEEN CHARLOTTES	CHILLIWACK	CRANBROOK	DAWSON CREEK	FORT ST. JOHN	HAZELTON	KAMLOOPS	KELOWNA	MAPLE RIDGE	MERRITT	NANAIMO	NELSON	PENTICTON	POWELL RIVER	PRINCE GEORGE	PRINCE RUPERT	QUESNEL	SMITHERS	SURREY	VANCOUVER	VERNON	VICTORIA	NEW WESTMINSTER	WILLIAMS LAKE	BURNS LAKE
Police	4.6	3.5	13.5	*	10.4	14.8	21.0	8.8	*	8.4	10.0	*	*	11.7	12.9	11.0	8.1	6.2	7.0	1.9	2.0	13.1	4.2	13.0	8.8	5.8	6.4	*
Judge	2.6	2.7	10.1	*	7.5	9.8	6.6	5.3	*	6.5	4.1	*	*	4.5	7.6	3.7	6.1	4.4	7.2	1.6	3.1	7.4	2.9	4.8	5.2	4.3	8.1	*
Lawyer	23.9	5.2	12.4	*	16.0	22.2	15.6	14.2	*	18.6	14.3	*	*	19.0	28.5	46.3	34.0	11.7	18.4	16.7	19.7	15.4	10.5	20.0	22.5	21.8	7.6	*
Duty Counsel	7.9	4.3	2.5	*	14.0	3.4	4.2	6.2	*	13.3	14.1	*	*	19.9	2.0	0.9	6.1	10.1	1.1	6.6	1.2	5.6	4.6	14.8	25.1	10.2	2.1	*
Prob. Officer	1.4	3.7	5.6	*	3.0	4.4	3.6	5.3	*	3.6	4.3	*	*	5.5	5.3	4.3	6.6	2.6	2.6	0.9	3.1	4.2	2.9	7.3	4.4	3.0	3.3	*
Social Worker	2.6	1.9	1.7	*	2.0	3.7	2.4	2.7	*	2.6	3.6	*	*	2.1	2.3	2.5	1.0	2.5	0.8	0.6	1.6	2.9	1.8	2.2	2.3	1.7	1.9	*
Court Worker	13.5	61.9	3.9	*	20.9	7.1	12.6	20.4	*	20.1	9.2	*	*	10.0	1.7	18.1	20.8	36.9	29.8	36.2	46.9	12.8	60.2	13.9	8.4	20.3	46.2	*
Family/Friend	15.1	11.2	40.2	*	19.3	24.6	29.9	24.8	*	18.4	27.4	*	*	19.7	27.5	9.8	10.2	18.1	18.7	20.1	15.0	23.0	8.5	19.4	15.2	15.7	17.4	*
Radio / T.V.	0.2	0.4	0.8	*	0.6	0.3	0.0	0.9	*	0.5	1.9	*	*	0.4	0.7	0.3	0.5	0.5	0.3	0.3	0.0	0.7	0.5	0.2	0.5	0.7	0.2	*
Newspaper	0.2	0.4	1.1	*	0.5	1.0	0.0	0.9	*	0.7	0.6	*	*	0.8	1.7	0.3	0.0	0.7	0.5	0.6	0.4	1.1	0.4	0.4	0.5	0.7	1.4	*
Other	28.1	4.8	8.1	*	5.9	8.8	4.2	10.6	*	7.1	10.5	*	*	6.2	9.9	2.8	6.6	6.4	13.6	14.5	7.1	13.7	3.5	4.0	7.3	15.8	5.2	*

FAMILY

RECORDED SOURCE	ABBOTSFORD	BURNABY	CAMPBELL RIVER	QUEEN CHARLOTTES	CHILLIWACK	CRANBROOK	DAWSON CREEK	FORT ST. JOHN	HAZELTON	KAMLOOPS	KELOWNA	MAPLE RIDGE	MERRITT	NANAIMO	NELSON	PENTICTON	POWELL RIVER	PRINCE GEORGE	PRINCE RUPERT	QUESNEL	SMITHERS	SURREY	VANCOUVER	VERNON	VICTORIA	NEW WESTMINSTER	WILLIAMS LAKE	BURNS LAKE
Police	0.8	0.0	3.8	*	1.9	3.8	3.2	2.3	*	3.7	2.1	*	*	2.9	2.4	2.9	0.0	2.3	2.2	0.0	0.9	3.2	3.0	2.9	3.4	2.8	5.5	*
Judge	0.8	0.0	0.3	*	1.5	2.9	0.0	0.0	*	1.3	0.5	*	*	0.5	0.3	0.0	0.0	1.5	0.7	0.0	0.9	1.9	1.4	0.0	1.3	1.9	1.6	*
Lawyer	21.1	0.0	13.5	*	11.7	19.5	14.9	16.1	*	16.4	19.3	*	*	19.0	33.1	39.4	37.4	15.4	16.3	19.9	15.0	15.4	17.1	16.9	17.7	18.5	4.9	*
Duty Counsel	0.4	0.0	1.7	*	0.4	1.0	0.6	2.3	*	0.8	1.3	*	*	1.8	0.3	0.0	1.0	0.6	0.4	0.7	0.0	1.2	1.4	0.9	0.7	1.2	1.1	*
Prob. Officer	0.0	0.0	4.5	*	2.3	7.6	1.3	8.0	*	3.7	1.1	*	*	1.8	6.3	2.9	4.0	1.7	5.9	4.1	0.0	0.6	1.3	6.4	0.8	1.2	4.9	*
Social Worker	14.2	75.0	22.8	*	21.1	22.4	16.2	16.1	*	18.1	23.3	*	*	24.5	17.4	17.3	19.2	25.8	18.9	10.3	17.8	23.4	23.4	24.2	20.9	22.1	21.4	*
Court Worker	3.3	0.0	6.9	*	7.2	6.2	11.7	10.3	*	9.9	4.5	*	*	7.3	4.2	14.4	5.1	7.0	8.1	6.8	15.0	8.4	6.7	5.7	3.3	11.9	8.8	*
Family/Friend	28.9	25.0	38.1	*	37.4	25.7	39.6	35.6	*	31.3	31.0	*	*	32.9	22.0	14.4	14.1	33.0	36.3	30.1	29.0	33.5	28.4	31.9	37.1	26.4	40.7	*
Radio / T.V.	0.8	0.0	1.4	*	1.5	1.0	1.9	1.1	*	1.7	2.9	*	*	0.5	0.7	1.0	0.0	1.5	0.4	0.7	0.9	1.7	1.6	0.7	1.6	1.0	0.0	*
Newspaper	0.4	0.0	1.0	*	1.1	1.9	0.6	0.0	*	1.7	1.1	*	*	1.2	1.0	0.0	0.0	1.5	1.9	0.7	0.9	1.5	1.6	0.9	1.9	1.2	0.5	*
Other	29.3	0.0	5.9	*	14.0	8.1	9.7	8.0	*	11.5	12.8	*	*	7.5	12.2	7.7	19.2	9.6	8.9	26.7	19.6	9.4	14.2	9.7	11.4	11.7	10.4	*

* - too few cases to make estimate.

2.2.4 Office Orientation

In interviews staff were asked to name the "best" points of their office's method of delivering services. Their responses revealed office orientation. Branch Offices reported their strengths primarily in terms of direct one-to-one client services and speedy, volume services. To a lesser extent, Branch Offices reported a "people/problem" orientation, that is, a person and problem or a sympathetic listening orientation. CLO's identified sympathetic helping and self-help approaches. CLO/AD's, as might be expected from their origin, identified points that were identified by both Branch Offices and CLO's. NCLO's stood out as the only offices where staff identified "understanding the community" as one of their strong points (Table 2-39).

3.0 SERVICE DEMAND ANALYSIS

Given the variation in underlying population characteristics and the variation in local referral networks, it would be reasonable to expect that utilization of the various legal aid services would vary substantially across the province. This turned out to be the case. This section of the chapter describes the statistical utilization analysis that was performed as part of the evaluation.

When looking at the delivery of services, two major approaches can be taken. In one approach models can be developed to predict underlying "need" for legal aid services. Such models are usually normative and employ agreed-upon measures of need. Need is not the same thing as use. Some people may need services and never get them. Some people may use services and not really need them. Statistically, "need" can only be separated from utilization if some underlying population-based needs survey is done. Even with an underlying needs survey, it is difficult to determine whether some civil problems brought to legal aid are basically legal or social. Some problems have both social and legal solutions. In the criminal law area it is easier to identify when problems are legal: all prosecutions have a dominant legal component.

The other approach is to look at utilization and build statistical utilization models. Such models explore empirical patterns of use and relate them to factors which are believed to be associated with use. Factors which identify groups of people who have a high probability of needing or using services are often good predictors of utilization. The characteristics of the existing delivery network are also usually good predictors of utilization.

TABLE 2-39

OFFICE ORIENTATION*

	BRANCH OFFICES	CLO/AD's	CLO's	NCLO's
Direct one-to-one service	8	2	-	-
Speedy service, maximize quantity of advice	5	2	-	-
Fight for client	1	2	-	1
Have Senior counsel available	2	-	-	-
Systems approach, whole person, whole problem, mediates etc.	5	-	2	-
Self-help	-	1	2	-
Sympathetic help, listen to problem, approachable office	2	2	1	1
Demystify the law	-	2	-	1
Understand Community	-	-	-	2

* Multiple responses possible

A needs survey was not performed in this evaluation. Such a survey requires resources far beyond those available. Statistical utilization models based on service rates and service volumes were built. Using these models, it was possible to isolate factors influencing the patterns of utilization.

The two types of utilization models reveal different things. Volume models can be used to make predictions and to help understand the variation in levels of service across the province. Utilization rate models, where services per fixed unit of population (say criminal law tariff referrals per 1,000 persons) are analyzed, in essence "hold population constant". Analysis of utilization rate models identifies factors influencing relative use, not service volumes. Different types of factors are usually identified in utilization rate models than in volume models. Both types of models are necessary to get a good picture of utilization.

Utilization models were developed for patterns of service for the 12 month period preceding October 1, 1982 (the date of introduction of major restraint programming by the LSS). Models were based on data collected at the Office Service Area level of aggregation.

Volume models were built for:

- overall use of criminal tariff and advice/information services;
- overall use of family tariff and advice/information services; and
- overall use of civil non-family representational and advice/information services;

Utilization rate models were built for:

- use of criminal tariff services, advice/information;
- use of family tariff services, advice/information; and
- use of civil non-family services.

Models were constructed by means of multiple regression. The data used in the regional justice system and socio-legal profiles were used to build the utilization models as well.

3.1 UTILIZATION OF CRIMINAL LAW SERVICES

It proved to be a straightforward statistical task to predict the number of individuals coming to a local service office for advice or representational services. Ninety-five percent of the variation in advice and representational services in the criminal law area could be predicted knowing only the number of property offenders proceeded against in court. While legal aid services covered a range of offences, knowing the number of property offenders proceeded against proved to be a good index of the volume of criminal legal aid services (Table 2-40). In the pre-restraint period, for projection purposes, for every 1.6 property offenders proceeded against, the LSS offices and CLO's could expect one request for advice or representational services. For projection purposes, for every three violent offences known to the police, the LSS could expect one criminal tariff referral case. This does not mean that the requests for representation were all from persons accused of property offences or from persons accused of violent offences. Rather, property charges and violence charges were good indices of case volumes.

The volume utilization models revealed several important things: the volume of services provided across the Regions of the province varied directly with population related factors such as crimes known to the police or court volumes. While the statistical analysis in the evaluation was cross-sectional, that is, the volume of services in different areas were cross-related for one point in time, it seems reasonable, given the strength of the cross-sectional relationship, that the volume of criminal legal aid services should vary over time with variations in the incidence of crime. The increase probably would not be a one-for-one increase. Systems have capacities, and growth in legal aid coverage is probably influenced by the capacity of the system to handle more cases. Generally, however, the volume of services should go up as the number of individuals charged with criminal code violations increases.

In providing criminal legal aid, the LSS functions as a reactive organization, responding to actions of other parts of the criminal justice system. In many ways the legal aid system is like the welfare system in that external conditions which it cannot control produce pressures for services.

The LSS is not, however, a passive organization nor does it function only in relation to the police and prosecutors. Even in the criminal tariff area other

TABLE 2-40

CRIMINAL LEGAL AID UTILIZATION MODELS

CRIMINAL LEGAL AID SERVICES	STRENGTH OF MODEL (R^2)	PREDICTORS	BETA	t	SIG. OF t
MODEL 1: Volume of all criminal law services	.95	Property court proceedings	0.97	28.6	0.0000
MODEL 2: Volume of criminal tariff services	.95	Violent crimes reported to the police	0.98	29.2	0.0000
MODEL 3: Utilization rate for criminal tariff services	.72	Referrals by court-workers	0.63	7.0	0.0000
		Total LSS & CLO staff per 1,000 population	0.40	4.5	0.0001
		Percent of total population welfare heads of household	0.31	3.4	0.0015
MODEL 4: Utilization rate for all criminal law services	0.80	Referral patterns by Courtworkers	0.70	9.1	0.0000
		Presence of a NCLO	0.50	6.5	0.0000
		Percent of total population welfare heads of household.	0.33	4.3	0.0001

organizations such as Native Court Workers, the Salvation Army and the Elizabeth Fry Society influence whether cases are referred to the LSS.

The utilization rate models showed the importance of organizational structure and referral patterns. The staffing rate (the total number of LSS and CLO staff in an area divided by the population of the area and multiplied by 1,000) proved to be a good predictor of the criminal legal aid tariff utilization rate in an area. Similiarly, the pattern of referrals from courtworkers and a poverty/welfare measure were good predictors. Utilization rates were associated with system availability and awareness factors and underlying measures of poverty. Surprisingly, criminal tariff representation rates were not associated with crime rates or prosecution rates. Overall, the criminal tariff model explained 80% of the variation in utilization rates, and that variation was explained by availability and poverty measures, not crime measures.

Table 2-41 contains a list of the inter-correlations between criminal tariff representation rates and a range of factors. All correlations above 0.40 (or below -0.40) were included in the table as well as some interesting weak correlations. As can be seen from the table, criminal tariff utilization rates were moderately associated with measures of poverty. This is to be expected. Areas with a higher proportion of the population in poverty have more people financially eligible for legal aid. If the need for criminal representational services is evenly distributed across all income groups, which is not likely, areas with more people in poverty should have higher utilization rates. If the need for representational services for criminal law problems is greater among people with lower incomes, which is likely, the need in poor areas should be even greater.

Criminal tariff utilization rates showed a moderate association with the LSS staffing levels and budget expenditures and were strongly associated with courtworker referral patterns. Availability and awareness of services mattered in utilization. Utilization rates were not associated with the measures of Native Indian population used in the analysis nor were they associated with crime measures.

The lack of correlation between the criminal utilization rates and the crime measures deserves detailed discussion. The criminal tariff program, before restraint programming began, was a legislated entitlement program. If

TABLE 2-41

CRIMINAL TARIFF SERVICE UTILIZATION RATE CORRELATIONS

POVERTY MEASURES	
Percent of Population	
Males on welfare	0.45
Females on welfare	0.34
Heads of household on welfare	0.48
On welfare	0.52
Proportion of population unemployed	
Males with less than high school education	0.51
Proportion of population unemployed	
Married males	0.48
ORGANIZATION MEASURES	
Staffing rate	0.42
Proportion of cases referred by Courtworkers	0.65
Ratio of LSS budget dollars to population	0.43
Area Director service	-0.31
CRIME MEASURES	
Violent crime rate	0.05
Property crime rate	0.16
Drug crime rate	-0.08
Driving offence rate	-0.02
Violent crime prosecution rate	0.05
Property crime prosecution rate	0.12
Drug prosecution rate	0.07
Driving offence prosecution rate	0.21
NATIVE INDIAN POPULATION MEASURES	
Proportion of population speaking a Native Indian language	0.27
Proportion of population living on reserves	0.19

a person was charged *and* there was a possibility of jail (a somewhat discretionary decision) *and* the person's income fell below a certain level, he or she was eligible for representational services. While the eligibility decisions were discretionary, general guidelines existed. Analysis of client profiles showed that similar financial criteria were being used across offices. With a set of fairly uniform rules for determining eligibility, court prosecution rates should be correlated, that is statistically associated with, criminal tariff utilization rates. Crime rates were in fact strongly associated with prosecution rates (Table 2-42); legal aid utilization rates were not.

Police activity clearly feeds court activity. Court activity should feed legal aid tariff activity. The statistical association was, however, weak. The only reasonable explanation of this is that some of the individuals who were eligible for criminal legal aid were not being served by the legal aid system. *There was unmet need for criminal legal aid tariff services*.

At the same time that crime and prosecution rates were not associated with utilization rates, measures of the activity of the legal aid system itself were. Staffing, budgetting, and the activity of courtworkers were all associated with criminal legal aid utilization rates. The presence of Area Directors was *negatively* associated with utilization. The criminal legal aid tariff system in British Columbia appeared to be an availability driven system. Offices, staff, and feeder networks were associated with high rates of utilization. Stated another way, *it appears that there were insufficient legal aid resources available to meet the need during the pre-restraint period*. Areas served by Area Directors had generally lower utilization rates. Utilization was tied to the availability of resources and referral patterns.

As a rough rule of thumb, when there are sufficient criminal legal aid resources available to meet the need, criminal tariff utilization rates will become strongly correlated with prosecution rates, controlling for poverty.* Merely maintaining a criminal tariff program that provided service to all eligible comers did not appear to be sufficient to meet the need. Access to the system must be improved.

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* High correlations would also be obtained if the need were not met, but the process by which individuals eligible for legal aid were denied service produced no areal biases.

TABLE 2-42

CORRELATIONS BETWEEN PROSECUTION RATES AND CRIMES KNOWN TO THE POLICE

	1	2	3	4	5	6	7	8	9	10
Prosecution Rates										
1. Violent Crimes	1.0									
2. Property Crimes	0.83	1.0								
3. Drugs	0.45	0.55	1.0							
4. Other	0.04	0.25	0.49	1.0						
5. Driving Crime	0.73	0.73	0.67	0.73	1.0					
Crime (Police) Rates										
6. Violent Crimes	0.91	0.74	0.37	0.73	0.32	1.0				
7. Property Crimes	0.70	0.84	0.49	0.66	0.57	0.76	1.0			
8. Drugs	0.62	0.65	0.79	0.65	0.57	0.62	0.54	1.0		
9. Other	0.41	0.82	0.57	0.28	0.58	0.79	0.73	0.85	1.0	
10. Driving	0.85	0.61	0.77	0.64	0.61	-0.02	0.16	0.38	0.28	1.0

The criminal legal aid system is particularly important. Criminal legal aid is the historical base for legal aid in British Columbia and in Canada. Demand for criminal legal aid cannot be generated by a legal aid system. No one would argue that an individual will commit a crime because he knows he will have counsel. A criminal legal aid system responds to the activity of the police and the courts. To improve equity in the system, access must be improved. The criminal legal aid system should not be an availability driven system.

These comments about equity are particularly important to consider in this period of restraint. The utilization models were built on data from the pre-restraint period. In the restraint programming introduced after October 1, 1982, the LSS reduced problem coverage, reduced staff and closed offices. These were the only means available to the LSS to reduce costs. The reduced coverage, if applied uniformly, should reduce general access to the criminal tariff program and would not necessarily increase inequity across the system. It cannot be argued that there was over utilization based on legislated coverage standards in the criminal tariff area. Reducing staff and closing offices, on the other hand, reduces costs but increases inequality of access. When offices are closed or replaced with Area Directors, utilization almost certainly drops. With staffing reductions, more people will probably fall through the net.

Assuming that equity is a goal of the legal aid system, whatever standard of coverage is adopted, the LSS needs more resources in order to improve access to the system. Improved resources for courtworker and alternative programs that direct clients to the criminal tariff program would help ensure that eligible people do not fall through the net.

The normative question of the level of problem coverage desired must be also addressed. This question is somewhat separate from the resource question. The long term historic trend is towards more coverage. The Charter of Rights may lead us in the direction the United States has gone: constitutionally-mandated services for any poor person who is at any risk whatsoever of going to jail. While resources are limited at this time, the provincial government, the Legal Services Society, the bar and other interested parties must address the fundamental normative question of who should have representational services when accused of crime. While it is almost impossible for any government to approach such a question without thinking of cost implications, some attempt should be made to address the normative issues. Current restraint budgets move legal aid back in time and reduce equity within the criminal legal aid system.

3.2 UTILIZATION OF FAMILY LAW SERVICES

Analyzing the utilization of family legal aid services is more complex than analyzing the utilization of criminal legal aid services. It cannot reasonably be argued that the presence of criminal legal aid creates crime. In the family law area, the definition of need is more complex. Family problems have a variety of causes. Family problems can be can be viewed both socially and legally. Solutions to family problems may involve both social and legal approaches. It could reasonably be argued that the availability of legal aid for family law problems may encourage people to seek legal rather than social solutions to their family problems. On the other hand, the lack of legal aid for family problems might eliminate the possibility of a legal solution when a legal solution would be the best or even the only solution.

Most likely the vast majority of family legal aid cases could only be resolved by means of legal remedies. There may, however, be cases where non-legal solutions would have worked. It is impossible, without an extensive separate study, to determine the number of marginal cases. Utilization models for family law cases both legal need and the impact of the availability of legal aid resources.

As in the criminal legal aid area, two types of utilization models were built: volume models and rate models. Table 2-43 contains the summary statistics for these models.

As with criminal legal aid services it proved simple to predict statistically the volume of family legal aid services in the pre-restraint period. The major predictor of the volume of services was the number of single parent families with children under six. This is an excellent measure of underlying need for legal aid in divorce, custody and maintenance matters. The number of CLO/AD staff lawyers was also a good predictor. CLO/AD's generally handled a higher proportion of family law cases than CLO's or Branch Offices.

The utilization rate models, while controlling for population, were not quite as strong statistically as the service volume models. The rate models showed the importance of the availability of services. The staffing rate was a good predictor of family legal aid utilization rates as was the proportion of the population composed of single female welfare recipients.

TABLE 2-43

FAMILY LEGAL AID UTILIZATION MODELS

	STRENGTH OF MODEL (R^2)	PREDICTORS	BETA	t	SIG. OF t
MODEL 1: Volume of all Family law services	.92	Number of single parent families with children under six	0.88	24.76	0.0000
		Number of staff lawyers in CLO/AD offices	0.20	6.723	0.0000
MODEL 2: Volume of family tariff services	.97	Number of single parent families with children under six	0.93	30.64	0.0000
		Number of staff lawyers in CLO/AD offices	0.11	3.30	0.0005
MODEL 3: Utilization rate for all Family legal aid services	.84	CLO/AD staffing rate per 1,000 population	0.60	8.67	0.0000
		Proportion of population single female welfare recipients	0.41	5.73	0.0000
		Total staffing rate per 1,000 population	0.36	5.12	0.0000
		Proportion of population speaking other than English or a Native Indian language	0.25	3.43	0.0014
MODEL 4: Utilization rate for Family representational services	.70	Proportion of population single female welfare recipients	0.48	4.90	0.0000
		Staff lawyer rate per 1,000 population	0.32	3.20	0.0029
		Areas with Native Friendship Centres and referral capacity	0.30	3.03	0.0046
		Proportion of clients referred by social worker	0.26	2.55	0.0152
		CLO/AD office in area	0.25	2.60	0.0136

TABLE 2-44

FAMILY LEGAL AID UTILIZATION CORRELATIONS

	TARIFF SERVICES	ALL SERVICES
POVERTY MEASURES		
Percent of population		
Males on welfare	0.37	0.34
Females on welfare	0.59	0.60
Heads of household on welfare	0.59	0.55
Non-taxable return rate	0.41	0.42
ORGANIZATIONAL MEASURES		
Staffing rate	0.42	0.40
Ratio of budget dollars to population	0.43	0.42
Area Director service	-0.35	-0.40
DEMOGRAPHIC MEASURES		
Percent of population		
Male 15-19	0.42	0.41
Female 15-19	0.50	0.48

Table 2-44 contains the high correlations between family law utilization rates and a range of socio-demographic and availability measures. As can be seen from the table, there was a moderate association between a variety of poverty measures and the utilization of family legal aid services. There were moderate associations between utilization and legal aid availability characteristics. There were positive correlations with staffing and budgetted dollars, but a negative correlation with the presence of Area Directors. Family legal aid utilization appeared to be associated with poverty and availability factors.

3.3 UTILIZATION OF CIVIL NON-FAMILY SERVICES

Civil non-family services proved to be almost totally driven by availability factors. As described in Chapter 1, not all types of legal aid offices handled a similar distribution of problem types. Area Directors handled few civil non-family cases either by making pro bono referrals or by giving advice. CLO's, on the other hand, primarily gave civil non-family advice. The location of CLO's (and the derivative CLO/AD Offices) to a great extent determined whether civil non-family services were even available in an area. Table 2-45 contains summaries of the civil non-family utilization models.

The volume of civil non-family services was almost totally predicted by the population of an area, the budget dollars allocated to the LSS offices and CLO's and the number of lawyers on staff in CLO/AD's. Ninety-six percent of the variation in the number of discrete services provided was explained by those three factors. Utilization rates were reasonably well predicted just by knowing staffing rates: the number of paralegals and overall CLO/AD office staff per 1,000 people. Civil non-family services were explained by availability/resource factors.

3.4 REGIONAL UTILIZATION RATES

The accessibility analysis showed variation in accessibility patterns across the province. Legal aid services were not equally accessible in all parts of the province. Physical accessibility varied; staffing rates varied; delivery mechanisms varied. The variation in accesibility should not be surprising. British Columbia is a large province with many areas which are only thinly populated. The LSS inherited two major types of offices, each emphasizing different types of services. Some areas of the province were served only by duty counsel or Area Directors. In some areas no local services were available. Additional resources are clearly needed if the general accessibility of legal aid is to be improved.

TABLE 2-45

CIVIL NON-FAMILY UTILIZATION MODELS

	STRENGTH OF MODEL (R^2)	EXPLANATORY VARIABLES	BETA	t	SIG. OF t
MODEL 1: Volume of civil non-family services	.96	Budgetted dollars (excluding tariff payments)	0.50	8.56	0.0000
		Population	0.40	6.38	0.0000
		Number of staff lawyers in CLO/AD offices	0.25	5.33	0.0000
MODEL 2: Utilization rate for all civil non-family services	.79	Paralegals per 1,000 population	0.57	6.87	0.0000
		CLO/AD office staff per 1,000 population	0.48	5.77	0.0000

Utilization rates were calculated for the Regions, Administrative Service Areas and Office Service Areas. These utilization rates showed the variation that would be expected in light of the known variation in accessibility and the importance of accessibility to utilization established in the preceding sections of this chapter. Utilization rates were calculated services in the criminal, family and civil non-family problem areas. Utilization rates were based on the home location of the individual seeking services, not on the office providing the service.

3.4.1 Criminal Legal Aid

Table 2-46 contains the criminal tariff utilization rates for the various areas of the province. The technical notes at the end of the chapter contain the base line service counts. The rates varied greatly, from a Regional low of 5.47 per 1,000 people in the Central Kootenay Region to a high of 19.34 in the Cariboo Region. The single highest utilization rate Office Service Area (OSA) was Terrace in the North West Coast Region. The lowest utilization OSA was in the same Region, Bella Bella. Table 2-47 contains a list of the top 10 and bottom 10 utilization OSA's in the province. As can be seen from the table, low utilization areas were frequently served by Area Directors. High utilization areas were served by a variety of office types. Many of the high utilization areas were in the central to northern part of the province.

Table 2-48 contains a list of the OSA, their populations, local office types and criminal tariff services utilization rates. The utilization rates varied by community, but did not generally increase or decrease as community size varied. As the utilization models showed, the factors influencing utilization were complex.

3.4.2 Family Legal Aid

Table 2-49 contains the family tariff utilization rates for the Regions, Administrative Service Areas and Office Service Areas in the province. The pattern of varied utilization rates seen for criminal legal aid tariff services was also evident for family tariff services, though the variation was not as great. The highest utilization rate Region was the Cariboo with 7.71 tariff services per 1,000 people. The lowest rate Region was the East Kootenay with 4.23 family tariff services per 1,000 people. Table 2-50 contains a list of the top and bottom 10 OSA utilization rate areas. As with criminal tariff services, low utilization areas overwhelmingly were served by Area Directors and high utilization areas were served by LSS offices or contract offices (CLO, NCLO, CLO/AD).

TABLE 2-46

CRIMINAL MATTERS:

UTILIZATION RATE FOR REPRESENTATIONAL SERVICES, 1982*
(SERVICES PER 1,000 POPULATION)

REGION		ADMINISTRATIVE AREA		OFFICE SERVICE AREA		
EAST KOOTENAY	7.10	Cranbrook	7.10	Cranbrook	(BO)	7.41
				Golden	(AD)	4.82
CENTRAL KOOTENAY	5.47	Nelson	5.47	Nelson, Kaslo	(BO,AD)	7.10
				Trail	(AD)	2.98
				Nakusp	(AD)	2.25
OKANAGAN	9.18	Vernon	8.02	Revelstoke	(AD)	10.74
				Salmon Arm	(AD)	7.46
				Vernon	(BO)	7.75
		Kelowna	8.88	Kelowna	(BO)	8.88
		Penticton	11.32	Penticton	(CLO)	11.32
KAMLOOPS INTERIOR	12.23	Kamloops	11.76	Kamloops	(CLO/AD)	11.44
				Lillooet	(AD)	18.43
		Merritt	16.58	Merritt	(NCLO)	16.58
GREATER VANCOUVER	11.55	Abbotsford	11.22	Abbotsford	(CLO/AD)	11.22
		Burnaby	16.26	Burnaby	(BO)	16.26
		Chilliwack	16.08	Chilliwack	(BO)	16.08
		New Westminster	6.15	Delta	(AD)	3.50
				Richmond	(AD)	4.69
				New Westminster	(CLO)	8.38
		Powell River	7.96	Gibsons	(AD)	8.07
				Powell River	(CLO/AD)	7.89
		Surrey	9.67	Langley	(BO-PAR)	8.13
				Surrey	(BO)	10.23
		Maple Ridge	10.87	Maple Ridge	(CLO)	10.87
		Vancouver	13.55	North Vancouver	(AD)	3.37
				Vancouver	(BO)	16.87
				Squamish	(AD)	13.97
VANCOUVER ISLAND	9.15	Campbell River	11.73	Campbell River	(BO)	11.73
		Nanaimo	7.97	Ladysmith	(AD)	6.69
				Port Alberni	(C)	5.16
				Nanaimo	(BO,CLO)	11.07
		Victoria	9.10	Victoria	(CLO/AD)	9.10
CENTRAL INTERIOR	18.13	Hazelton	17.79	New Hazelton	(NCLO)	17.79
		Prince George	18.08	Prince George	(BO)	18.60
				Mackenzie	(AD)	9.74
		Smithers	19.01	Smithers	(CLO/AD)	19.01
		Burns Lake	17.53	Burns Lake	(NCLO)	17.53

* Sample year Oct. 1, 1981 to Sept. 31, 1982 (one year prior to initial restraint measures)

TABLE 2-46
CRIMINAL MATTERS:
UTILIZATION RATE FOR REPRESENTATIONAL SERVICES, 1982
(SERVICES PER 1,000 POPULATION)

(Continued)

REGION		ADMINISTRATIVE AREA		OFFICE SERVICE AREA		
NORTHERN	10.93	Dawson Creek	9.42	Dawson Creek, Chetwynd	(BO,AD)	10.83
				Dease Lake & Cassiar	(C)	2.59
				Fort Nelson	(AD)	2.4
		Fort St. John	12.92	Fort St. John	(BO)	12.92
NORTH WEST COAST	18.21	Queen Charlottes, Prince Rupert	18.21	Masset & Skidegate, Prince Rupert	(BO,NCLO)	17.48
				Terrace	(AD)	23.59
				Bella Bella		1.43
CARIBOO	19.34	Williams Lake, Quesnel	19.34	Williams Lake, Quesnel	(BO, CLO/AD)	19.34
				Provincial Average = 11.29		

TABLE 2-47

HIGH AND LOW CRIMINAL TARIFF UTILIZATION AREAS

HIGH OSA's

LOCATION	RATE	TYPE OF OFFICE
Terrace	23.59	AD
Williams Lake, Quesnel	19.34	Br. Off., CLO/AD
Smithers	19.01	CLO/AD
Prince George	18.60	Branch Office
New Hazelton	17.79	NCLO
Burns Lake	17.53	NCLO
Prince Rupert	17.48	Branch Office
Vancover	16.87	Branch Office
Burnaby*	16.26	Branch Office
Chilliwack	16.08	Branch Office

LOW OSA's

LOCATION	RATE	TYPE OF OFFICE
Bella Bella	1.43	Circuit
Fort Nelson	2.40	AD
Dease Lake, Cassiar	2.59	Circuit
Nakusp	2.25	AD
Trail	2.98	AD
Delta	3.50	AD
North Vancouver	3.37	AD
Richmond	4.69	AD
Port Alberni	5.16	Circuit
Ladysmith	6.69	AD

* Burnaby has two offices located together. One is a public defender office which handles criminal tariff cases; the other, a traditional Branch Office, processes family tariff and civil non-tariff matters.

Table 2-48

Criminal Tariff Services: Utilization Rate
Rank Ordering by Population

OFFICE SERVICE AREA	OFFICE TYPE	POPULATION	UTILIZATION RATE
Dease Lake & Cassiar	C	1545	2.59
Fort Nelson	AD	2916	2.40
Lillooet	AD	3962	18.43
Bella Bella	C	4184	1.43
New Hazelton	NCLO	5058	17.79
MacKenzie	AD	5338	9.74
Golden	AD	6225	4.82
Burns Lake	NCLO	8213	17.53
Nakusp	AD	8434	2.25
Revelstoke	AD	9222	10.74
Merritt	NCLO	9290	16.58
Smithers	CLO/AD	11785	19.01
Squamish	AD	11807	13.97
Gibson	AD	12508	8.07
Terrace	AD	18227	23.59
Powell River	CLO/AD	19648	7.89
Ft. St. John	BO	20048	12.92
Dawson Creek	BO,AD	21878	10.83
Trail	AD	22114	2.98
Salmon Arm	AD	24796	7.46
Prince Rupert	BO,NCLO	32586	17.48
Port Alberni	C	39131	5.16
Abbotsford	CLO/AD	41083	11.22
Vernon	BO	42186	7.75
Cranbrook	BO	46450	7.41
Langley	BO-PAR	46844	8.13
Ladysmith	AD	47100	6.69
Nelson, Kaslo	BO,AD	50120	7.10
Chilliwack	BO	51430	16.08
Penticton	CLO,AD	51520	11.32
Williams Lake, Quesnel	BO,CLO/AD	51616	19.34
Maple Ridge	CLO	52430	10.87
Nanaimo	CLO,BO	54922	11.07
Delta	AD	64542	3.50
Campbell River	BO	69662	11.73
Kelowna	BO	71254	8.88
Richmond	AD	80034	4.69
Kamloops	CLO/AD	82836	11.44
Prince George	BO	86897	18.60
Surrey	BO	129157	10.23
New Westminster	CLO,BO	129445	8.38
Burnaby	BO-PD	131599	16.26
North Vancouver	AD	136056	3.37
Victoria	CLO/AD	230592	9.10
Vancouver	BO	414408	16.87

TABLE 2-49

FAMILY MATTERS:

UTILIZATION RATE FOR REPRESENTATIONAL SERVICES, 1982
(SERVICES PER 1,000 POPULATION)

REGION		ADMINISTRATIVE AREA		OFFICE SERVICE AREA		
EAST KOOTENAY	4.23	Cranbrook	4.23	Cranbrook	(BO)	4.48
				Golden	(AD)	2.41
CENTRAL KOOTENAY	5.19	Nelson	5.19	Nelson, Kaslo	(BO,AD)	6.30
				Trail	(AD)	3.98
				Nakusp	(AD)	1.78
OKANAGAN	5.51	Vernon	6.33	Revelstoke	(AD)	1.63
				Salmon Arm	(AD)	4.07
				Vernon	(BO)	8.68
		Kelowna	5.94	Kelowna	(BO)	5.94
		Penticton	3.71	Penticton	(CLO)	3.71
KAMLOOPS INTERIOR	6.96	Kamloops	7.10	Kamloops	(CLO/AD)	7.27
				Lillooet	(AD)	3.53
		Merritt	5.71	Merritt	(NCLO)	5.71
GREATER VANCOUVER	3.94	Abbotsford	5.94	Abbotsford	(CLO/AD)	5.94
		Burnaby	2.36	Burnaby	(BO)	2.36
		Chilliwack	6.24	Chilliwack	(BO)	6.24
		New Westminster	3.32	Delta	(AD)	2.36
				Richmond	(AD)	3.57
				New Westminster	(CLO)	3.65
		Powell River	3.86	Gibsons	(AD)	3.36
				Powell River	(CLO/AD)	4.17
		Surrey	5.83	Langley	(BO-PAR)	4.68
				Surrey	(BO)	6.25
		Maple Ridge	4.25	Maple Ridge	(CLO)	4.25
		Vancouver	3.65	North Vancouver	(AD)	1.75
				Vancouver	(BO)	4.21
				Squamish	(AD)	5.84
VANCOUVER ISLAND	5.31	Campbell River	4.68	Campbell River	(BO)	4.68
		Nanaimo	5.75	Ladysmith	(AD)	5.24
				Port Alberni	(C)	4.70
				Nanaimo	(BO,CLO)	6.92
		Victoria	5.24	Victoria	(CLO/AD)	5.24
CENTRAL INTERIOR	6.62	Hazelton	8.11	New Hazelton	(NCLO)	8.11
		Prince George	6.19	Prince George	(BO)	6.50
				Mackenzie	(AD)	1.12
		Smithers	11.79	Smithers	(CLO/AD)	11.79
		Burns Lake	3.04	Burns Lake	(NCLO)	3.04

TABLE 2-49
FAMILY MATTERS:
UTILIZATIONAL RATE FOR REPRESENTATIONAL SERVICES, 1982
(SERVICES PER 1,000 POPULATION)

(Continued)

REGION		ADMINISTRATIVE AREA		OFFICE SERVICE AREA		
NORTHERN	6.75	Dawson Creek	6.61	Dawson Creek, Chetwynd	(BO,AD)	7.54
				Dease Lake	(C)	0.65
				& Cassiar	(C)	0.65
				Fort Nelson	(AD)	2.74
		Fort St. John	6.93	Fort St. John	(BO)	6.93
NORTH WEST COAST	5.72	Queen Charlottes, Prince Rupert	5.72	Masset & Skidegate, Prince Rupert	(BO,NCLO)	5.01
				Terrace	(AD)	7.96
				Bella Bella	(C)	2.39
CARIBOO	7.71	Williams Lake, Quesnel	7.71	Williams Lake, Quesnel	(BO, CLO/AD)	7.71
				PROVINCIAL RATE: 4.78		

TABLE 2-50

HIGH AND LOW FAMILY TARIFF UTILIZATION AREAS

HIGH OSA's

LOCATION	RATE	TYPE OF OFFICE
Smithers	11.79	CLO/AD
Vernon	8.68	Branch Office
New Hazelton	8.11	NCLO
Terrace	7.96	AD
Williams Lake, Quesnel	7.71	Branch Office, CLO/AD
Kamloops	7.27	CLO/AD
Nanaimo	6.92	Branch Office, CLO
Fort St. John	6.93	Branch Office
Prince George	6.50	Branch Office
Nelson	6.30	Branch Office

LOW OSA's

LOCATION	RATE	TYPE OF OFFICE
Mackenzie	1.12	AD
Revelstoke	1.63	AD
North Vancouver	1.75	AD
Nakusp	1.78	AD
Burnaby*	2.36	Branch Office
Delta	2.36	AD
Bella Bella	2.39	Circuit
Golden	2.41	AD
Fort Nelson	2.74	AD
Burns Lake**	3.04	NCLO

* Burnaby has two offices located together. One is a public defender office which handles criminal tariff cases; the other, a traditional Branch Office, processes family tariff and civil non-tariff matters.

** opened after most of data collected

3.4.3 Civil Non-Family Legal Aid

Civil non-family utilization rates were similarly varied, but the variation followed a slightly different pattern. The East Kootenay Region was, once again, the lowest utilization area. The highest utilization area was the North West Coast Region. At the OSA level utilization rates varied from zero in several areas to 100.38 per 1,000 in Smithers (Table 2-51).

Table 2-52 contains a list of the 10 high and low utilization areas. The impact of resources and office location is clearlv evident. High utilization areas were areas with CLO's, NCLO's and CLO/AD's. Low utilization areas were areas with Area Directors. The difference between high and low civil non-tariff utilization rates was great, far greater than the spread in rates for tariff areas. The LSS, at its current size and current number of offices, does not begin to provide a broad base of civil non-family services. Many areas served by Area Directors effectively had no civil non-family services. If the LSS considers the delivery of civil non-family services important then additional means of delivering such services will have to be developed.

3.4.4 The Area Director System

The Area Director network is a weak link in the legal aid system. The proportion of the population served by Area Directors is substantial, yet Area Directors account for only a small proportion of the services provided by the LSS. The ten Office Service Areas with the lowest criminal tariff utilization rates were served by Area Directors or through circuits. Eight of the ten Office Service Areas with the lowest family tariff utilization rates were served by Area Directors or through circuits. Nine of the ten Office Service Areas with the lowest civil non-family utilization rates were served by Area Directors.

The proportion of the provincial population served by Area Directors is quite large. Table 2-53 presents proportional breakdowns for areas served by Area Directors and offices. Before restraint, 20% of the people in British Columbia were served by Area Directors or through circuits. (Note that within these areas, Area Directors provided services to 90% of the communities, circuits to 10% of the communities.) After restraint, this proportion increased to 27% of the population of British Columbia.

TABLE 2-51

CIVIL NON-FAMILY MATTERS:

UTILIZATION RATE FOR ALL SERVICES, 1982*
(SERVICES PER 1,000 POPULATION)

REGION		ADMINISTRATIVE AREA		OFFICE SERVICE AREA		
EAST KOOTENAY	2.35	Cranbrook	2.35	Cranbrook	(BO)	2.67
				Golden	(AD)	0.0
CENTRAL KOOTENAY	4.52	Nelson	4.52	Nelson, Kaslo	(BO,AD)	6.27
				Trail	(AD)	2.22
				Nakusp	(AD)	.24
OKANAGAN	6.65	Vernon	1.30	Revelstoke	(AD)	.43
				Salmon Arm	(AD)	.89
				Vernon	(BO)	1.73
		Kelowna	3.19	Kelowna	(BO)	3.19
		Penticton	19.37	Penticton	(CLO)	19.37
KAMLOOPS INTERIOR	13.22	Kamloops	6.33	Kamloops	(CLO/AD)	6.59
				Lillooet	(AD)	.76
		Merritt	77.61	Merritt	(NCLO)	77.61
GREATER VANCOUVER	7.56	Abbotsford	40.53	Abbotsford	(CLO/AD)	40.53
		Burnaby	1.82	Burnaby	(BO)	1.82
		Chilliwack	7.06	Chilliwack	(BO)	7.06
		New Westminster	10.11	Delta	(AD)	1.15
				Richmond	(AD)	1.89
				New Westminster	(CLO)	19.66
		Powell River	28.14	Gibsons	(AD)	.32
				Powell River	(CLO/AD)	45.86
		Surrey	3.57	Langley	(BO-PAR)	4.01
				Surrey	(BO)	3.41
		Maple Ridge	13.73	Maple Ridge	(CLO)	13.73
		Vancouver	4.80	North Vancouver	(AD)	1.15
				Vancouver	(BO)	6.07
				Squamish	(AD)	2.20
VANCOUVER ISLAND	8.22	Campbell River	2.94	Campbell River	(BO)	2.94
		Nanaimo	7.02	Ladysmith	(AD)	1.00
				Port Alberni	(C)	2.50
				Nanaimo	(BO,CLO)	15.40
		Victoria	10.55	Victoria	(CLO/AD)	10.55
CENTRAL INTERIOR	15.41	Hazelton	44.29	New Hazelton	(NCLO)	44.29
		Prince George	4.27	Prince George	(BO)	4.49
				Mackenzie	(AD)	.75
		Smithers	100.38	Smithers	(CLO/AD)	100.38
		Burns Lake	.73	Burns Lake	(NCLO)	.73

* Sample year Oct. 1, 1981 to Sept. 31, 1982 (one year prior to initial restraint measures)

TABLE 2-51

CIVIL NON-FAMILY MATTERS:
UTILIZATION RATE FOR ALL SERVICES, 1982
(SERVICES PER 1,000 POPULATION)

(Continued)

REGION		ADMINISTRATIVE AREA		OFFICE SERVICE AREA		
NORTHERN	5.82	Dawson Creek	5.69	Dawson Creek, Chetwynd	(BO,AD)	6.67
				Dease Lake & Cassiar	(C) (C)	.65
				Fort Nelson	(AD)	1.03
		Fort St. John	5.99	Fort St. John	(BO)	5.99
NORTH WEST COAST	24.82	Queen Charlottes, Prince Rupert	24.82	Masset & Skidegate	(NCLO)	
				Prince Rupert	(BO)	38.22
				Terrace	(AD)	2.52
				Bella Bella	(C)	0.0
CARIBOO	32.12	Williams Lake, Quesnel	32.12	Williams Lake, Quesnel	(BO,CLO/AD)	32.12
				PROVINCIAL RATE:		8.89

TABLE 2-52

HIGH AND LOW CIVIL NON-FAMILY UTILIZATION AREAS

HIGH OSA's

LOCATION	RATE	TYPE OF OFFICE
Smithers	100.38	CLO/AD
Merritt	77.61	NCLO
Powell River	45.86	CLO/AD
New Hazelton	44.29	NCLO
Abbotsford	40.53	CLO/AD
Prince Rupert, Masset & Skidgate	38.22	Br. Off., NCLO
Williams Lake, Quesnel	32.12	Br. Off., CLO/AD
New Westminster	19.66	CLO
Penticton	19.37	CLO
Nanaimo	15.40	Branch Off., CLO

LOW OSA's

LOCATION	RATE	TYPE OF OFFICE
Bella Bella	0.0	Circuit
Golden	0.0	AD
Nakusp	0.24	AD
Gibson	0.32	AD
Revelstoke	0.43	AD
Dease Lake & Cassiar	0.65	AD
Burns Lake*	0.73	NCLO
Mackenzie	0.75	AD
Lillooet	0.76	AD
Salmon Arm	0.89	AD

* office opened after data collected

TABLE 2-53

POPULATION SERVED
BY
OFFICES AND AREA DIRECTORS

	BEFORE RESTRAINT	AFTER RESTRAINT
Served by Offices	1,948,820 80%	1,795,969 73%
Served by AD's/Circuits	498,141 20%	650,992 27%

POPULATION IN AREAS WITH UNDER 50,000 POPULATION SERVED BY OFFICES AND AREA DIRECTORS

	BEFORE RESTRAINT	AFTER RESTRAINT
Served by Offices	310,578 58%	210,157 40%
Served by AD's/Circuits	217,509 42%	317,930 60%

Area Directors serve both large and small communities. The largest Office Service Area served by an Area Director had a population of 136,056 in 1981. The smallest had a population of 2,916 in 1981. Area Directors are, however, primarily directed toward the smaller communities. Before restraint 42% of the Office Service Areas with populations of less than 50,000 were served by Area Directors and circuits. After restraint the proportion climbed to 60% of the Office Service Areas with less than 50,000 population.

Although more than a fifth of the population of British Columbia was served by Area Directors before restraint, and more than a fourth after restraint, Area Directors provided only 6% of the services delivered through the Legal Services Society in the year preceding the introduction of restraint. Serious attention needs to be paid to the Area Director system. The large proportion of the population served by Area Directors suffers from inequitable access to legal aid.

4.0 SUMMARY

The Legal Services Society provided criminal, family and civil non-family legal aid services through a variety of delivery mechanisms: its own offices; offices under contract; and fee-for-service arrangements with private lawyers. Actual representational services were provided by staff and by members of the private bar for fees set out under a tariff for criminal and family problems or on a pro bono publico basis for civil non-family problems.

4.1 Centralization/Decentralization

The LSS legal aid delivery system is decentralized. Offices had a fair degree of autonomy during the term of the evaluation. The LSS updated its policies and procedures manual in 1982, providing guidelines for many office actions, but many decisions about service delivery continue to be made locally. Decentralization has strengths and weaknesses. Decentralization of administrative control allows adaptation to local concerns, but permits variation in the set of services delivered and in local policy.

Analysis of eligibility rules and patterns of eligibility decisions showed relatively consistent application of eligibility rules across the province. There was no indication that the decentralized control systems within the LSS adversely affected the equity of the eligibility decisions made by LSS staff and agents.

There was evidence that the LSS is moving, both as a natural consequence of the merger of the Legal Aid Society and the Legal Services Commission and as a consequence of the pressure of restraint programming, towards more centralized decision-making and clearer definition of rules. The formalization of appeals procedures described earlier in this chapter, the development of an integrated management information system, and the updating of a policies and procedure handbook are clear examples of increased central concern about the activities of offices and of the LSS's movement towards centrally defined administrative standards. The Board, through written statements, and Head Office managers, through actions and statements, assert the importance of a decentralized system with local control. Like many service delivery organizations, the LSS experiences pressures both to centralize and to decentralize. The current balance in the LSS is towards decentralization, but there are clearly conflicting trends which could lead to problems in the future. The LSS, at this point in time, remains a diversified organization. It is still an organization that provides legal aid through diverse type of offices that continue to exercise substantial levels of local control.

The move towards some centralization is natural. The LSS was formed only in 1979. Over the last four years, the LSS has been developing its character and its policy positions. It is natural, within a new organization, that policies and procedures develop. The development of them necessarily leads to more centralization of control. The creation of CLO/AD's from CLO's most likely increases the central control perceived by staff in CLO/AD's. Staff who formerly had extremely high levels of discretion must now follow LSS policy and procedures when acting in their Area Director capacity. The impact of restraint programming, discussed in Chapter 1, has probably accelerated the natural organizational movement towards increased central control by forcing the Board and Head Office managers to more narrowly define services more narrowly and to reduce local service office discretion about who receives services.

Since the LSS is a service-oriented organization which has widely distributed local service offices, it will most likely always remain more decentralized than centralized, despite recent trends. One major characteristic of many geographically based service organizations is decentralization of decision-making and control. Some trend toward centralization, however, will most likely continue. The evaluation points towards several specific "centralized" decisions which could be made and which would most likely have a positive impact on the delivery of services. First, the LSS operates with authority and control split between Head Office and the various local service offices (a decentralized structure). The "reach" of the local service areas is currently defined by natural client flows, by locally defined circuits, and by circuits identified by Head Office. Area utilization rates showed, particularly in the civil non-family but also in the criminal and family law areas, that parts of the province received few if any services. The holes in the service network were clearly related to funding - scarcity of offices - but were also possibly related to the distribution of responsibility for local service. The LSS has no administratively defined service areas. Service to local areas would be improved and overlap of services reduced if the LSS developed administrative service areas and gave each local office the responsibility for providing services across its entire area. Developing service areas and designating responsibility for providing services within them, but providing some standards for what services ought to be delivered, would help fill holes in the delivery net. While such a move would be a centralized decision and would increase the potential for regional accountability, it should be noted that the administration of services in such areas could be defined at the local service office level and thereby fit into the decentralized orientation of the LSS.

There are obvious limits to an administrative strategy in which offices have responsibility for areas. Area Directors are paid on a per application basis. They will not necessarily bring their services to remote areas. They are not employees of LSS and perform their Area Director functions for a variety of reasons. CLO's and NCLO's function under contracts. It would be more difficult to build in requirements that CLO's serve several communities and then develop and use monitoring methods to ensure that they did than it would be to exercise similar central controls over Branch Offices. Passing responsibility over to local service offices will not necessarily produce immediate coverage of underserved areas. Innovative management methods will be needed.

Another limitation, tied to the previously mentioned problem, is that different delivery modes have in the past delivered different mixes of services. Branch Offices, tended to be providers of tariff and tariffable services. Case flows, time allocations and local contact networks all pointed towards a tariff orientation. CLO's, on the other hand, primarily provided civil non-family services, but did so in restricted geographic areas. Area Directors had an application mix even more extreme than Branch Offices in their emphasis on tariff services. Utilization rates were, however, negatively associated with the presence of Area Directors. (There were, of course, exceptions. Terrace, in particular, was served by an Area Director and had extremely high utilization rates.) CLO/AD's provided a more balanced mix of family, civil non-family and criminal services. Provision of more uniform levels of service is tied not only to resources and service area definitions but also to the types of offices providing services and the type of work staff take on. Service delivery is tied to funding, to service area responsibility, and to the type of office in the area.

Second, the LSS could do several things to equalize the availability and accessibility of services. Most of what could be done to equalize accessibility would involve increased expenditures, an unlikely prospect during a period of fiscal restraint even, though strong arguments can be made for the proposition that the LSS needs increased resources in order to meet its obligation under the Legal Services Society Act. Several lower cost actions could be taken. The LSS could develop rules governing information to be included on signs. This seems particularly important given the variety of names of CLO's and NCLO's. The LSS could also develop standards about normal opening hours, special evening or weekend hours, and mechanisms for handling wheelchair access. All attempts to improve minimum levels of accessibility would, most likely, increase public use of legal aid services and therefore have associated costs.

Third, the LSS should continue along the experimental pathway it has followed in the past in attempting to find alternative means for providing services. Alternative modes mean that variation in service levels is likely, but experimentation means that the LSS is more likely to find delivery methods suited to the geography of British Columbia. A major current delivery problem is the provision of services in small communities and rural areas, particularly civil non-family services. The use of Area Directors has not proved to be a sufficient mechanism for delivering services to the residents of British Columbia. The LSS should consider more experiments in the delivery of services to rural areas currently served by Area Directors. Such experimentation would obviously require additional funding.

Fourth, access could be equalized by improvements to courtworker feeder networks, including Native Court Workers, the Salvation Army and the Elizabeth Fry Society. Obviously, improvements to these systems are not within the control of the LSS.

Fifth, access could be equalized by changes to the duty counsel system or by additional duty counsel services directed towards non-incarcerated persons.

Providing more equal access has cost implications. The costs associated with services create clear problems for the LSS. Funds are not available for service improvements. The LSS is not even able to maintain fiscal 1981/82 levels of service without special warrants. Even in 1981/82, the LSS was not able to provide enough services to meet the basic needs for criminal tariff coverage or to provide minimal civil non-family coverage across the province. The key to the delivery of services is the presence of offices and staff. No matter what services are provided, increased expenditures will be necessary in order to provide those services equitably.

4.2 Proactivity/Reactivity

The LSS local service offices were not generally proactive. Most engaged in minimal levels of public legal education and advertising. Most Branch Offices did not see such activities as part of their mandate and, under current budget levels, as counter-productive because they might generate increased client flows. Even CLO's engaged in few PLE or outreach activities despite their origins and the inclinations of many of their staff. Activities in all offices tended to involve direct client services and little community development or intervention activities. While CLO's operated under local boards, there appeared to be little variation in the pattern of reactive direct client services. Decentralization of control is supposed to facilitate local innovation and, in the case of legal aid, proactive approaches to solving local problems. While some innovation was identified during staff interviews, it was the exception rather than the rule in local service offices.

4.3 Needs/Rights

The LSS is currently caught up in the process of determining what, if any, legal aid services are going to be considered rights defined by legislation. Until restraint programming was introduced there were well defined and generally accepted legislated criminal and family legal aid rights. Civil non-family coverage was treated as a legal need of the poor but not as a right. The general movement within western nations, Canada included, has been towards a broader definition of legal aid rights. Current restraint measures are contrary to long term trends but not dissimilar to short term trends in the United States and Britain. It is important to note that no matter what services are defined as legislated rights, concerns with equity push towards expansion of the legal aid delivery network and definitions of minimum service levels.

To provide legal aid equitably, a baseline delivery network must exist. This network must exist whether services are limited or expanded. Reduced coverage does not mean that the office network can be reduced. Every reduction in the office network increases the inequality of access which was found in British Columbia.

CHAPTER 2

TECHNICAL NOTES

TABLE 2-54

APPLICANT PROFILES

	Criminal		Family		Civil Non-Family	
	Mean	SD	Mean	SD	Mean	SD
Clients						
Age	26.5	10.4	32.3	10.0	39.6	15.6
Monthly Income	$ 500	268	$ 690	315	$ 754	440
Monthly Expenses	$ 519	394	$ 789	623	$ 783	471
Total Assets	$ 810	5045	$3935		$5307	
N =	1070		696		98	
Rejected Income						
Age	27.0	11.3	34.6	11.6	38.0	16.8
Monthly Income	$1003	605	$1194	878	$ 959	567
Monthly Expenses	$ 758	728	$1092	992	$ 964	1114
Total Assets	$2701	11273	$10044	19429	$8485	21926
N =	69		74		34	
Rejected Covrage						
Age	26.3	10.6	31.7	10.6	41.6	15.2
Monthly Income	$ 600	535	$ 673	399	$ 669	385
Monthly Expenses	$ 526	310	$ 761	381	$ 689	440
Total Assets	$ 900	3299	$5096	16799	$1008	2420
N =	115		54		69	

TABLE 2-55

MANOVA

Monthly Income, Monthly Expenses, Total Assets by Eligibility Status (ELIG) by Problem Type (TYPE) by Before or After Restraint Period

	APPROXIMATE F	SIGNIFICANCE
ELIG by TYPE by PERIOD	.99	N.S
TYPE by PERIOD	.99	N.S
ELIG by PERIOD	.81	N.S
ELIG by TYPE	2.69	SIG.
PERIOD	.55	N.S
TYPE	10.24	SIG.
ELIG	17.79	SIG.

Age by Eligibility Status by Problem Type by Before or After Restraint

	F	SIGNIFICANCE
ELIG by TYPE by PERIOD	.54	N.S
TYPE by PERIOD	2.94	N.S
ELIG by PERIOD	1.73	N.S
ELIG by TYPE	5.18	SIG.
PERIOD	.08	N.S
TYPE	268.23	SIG.
ELIG	23.13	SIG.

TABLE 2-56
UTILIZATION FIGURES

CRIMINAL MATTERS:
TOTAL REPRESENTATIONAL SERVICES, 1982*

REGION		ADMINISTRATIVE AREA		OFFICE SERVICE AREA		
EAST KOOTENAY	374	Cranbrook	374	Cranbrook	(BO)	344
				Golden	(AD)	30
CENTRAL KOOTENAY	441	Nelson	441	Nelson	(BO)	350
				Kaslo	(AD)	6
				Trail	(AD)	66
				Nakusp	(AD)	19
OKANAGAN	1827	Vernon	611	Revelstoke	(AD)	99
				Salmon Arm	(AD)	185
				Vernon	(BO)	327
		Kelowna	633	Kelowna	(BO)	633
		Penticton	583	Penticton	(CLO)	583
KAMLOOPS INTERIOR	1175	Kamloops	1021	Kamloops	(AD/CLO)	948
				Lillooet	(AD)	73
		Merritt	154	Merritt	(NCLO)	154
GREATER VANCOUVER	15259	Abbotsford	461	Abbotsford	(AD/CLO)	461
		Burnaby	2140	Burnaby	(BO)	2140
		Chilliwack	827	Chilliwack	(BO)	827
		New Westminster	1686	Delta	(AD)	226
				Richmond	(AD)	375
				New Westminster	(CLO)	1085
		Powell River	256	Gibsons	(AD)	101
				Powell River	(AD/CLO)	155
		Surrey	1702	Langley	(BO-PAR)	381
				Surrey	(BO)	1321
		Maple Ridge	570	Maple Ridge	(CLO)	570
		Vancouver	7617	North Vancouver	(AD)	459
				Vancouver	(BO)	6993
				Squamish	(AD)	165
VANCOUVER ISLAND	4040	Campbell River	817	Campbell River	(BO)	817
		Nanaimo	1125	Ladysmith	(AD)	315
				Port Alberni	(C)	202
				Nanaimo	(BO,CLO)	608
		Victoria	2098	Victoria	(AD/CLO)	2098
CENTRAL INTERIOR	2126	Hazelton	90	New Hazelton	(NCLO)	90
		Prince George	1668	Prince George	(BO)	1616
				Mackenzie	(AD)	52
		Smithers	224	Smithers	(AD/CLO)	224
		Burns Lake	144	Burns Lake	(NCLO)	144

* Sample year Oct. 1, 1981 to Sept. 31, 1982 (one year prior to intitial restraint measures)

TABLE 2-56
UTILIZATION FIGURES

CRIMINAL MATTERS:
TOTAL REPRESENTATIONAL SERVICES, 1982

(Continued)

REGION		ADMINISTRATIVE AREA		OFFICE SERVICE AREA		
NORTHERN	507	Dawson Creek	248	Dawson Creek, Chetwynd	(BO) (AD)	199
				Dease Lake		38
				& Cassiar	(C)	4
				Fort Nelson	(AD)	7
		Fort St. John	259	Fort St. John	(BO)	259
NORTH WEST COAST	1102	Queen Charlottes, Prince Rupert	1102	Masset & Skidegate, Prince Rupert	(NCLC,BO)	666
				Terrace	(AD)	430
				Bella Bella	(C)	6
CARIBOO	998	Williams Lake, Quesnel	998	Williams Lake, Quesnel	(BO) (AD/CLO)	998
						TOTAL = 27849

TABLE 2-57

FAMILY REPRESENTATIONAL SERVICES: CONTACTS, 1982*

REGION		ADMINISTRATIVE AREA		OFFICE SERVICE AREA		
EAST KOOTENAY	233	Cranbrook	233	Cranbrook	(BO)	208
				Golden	(AD)	15
CENTRAL KOOTENAY	419	Nelson	419	Nelson	(BO)	316
				Kaslo	(AD)	---
				Trail	(AD)	88
				Nakusp	(AD)	15
OKANAGAN	1096	Vernon	482	Revelstoke	(AD)	15
				Salmon Arm	(AD)	101
				Vernon	(BO)	366
		Kelowna	423	Kelowna	(BO)	423
		Penticton	191	Penticton	(CLO)	191
KAMLOOPS INTERIOR	669	Kamloops	616	Kamloops	(AD/CLO)	602
				Lillooet	(AD)	14
		Merritt	53	Merritt	(NCLO)	53
GREATER VANCOUVER	5211	Abbotsford	244	Abbotsford	(AD/CLO)	244
		Burnaby	310	Burnaby	(BO)	310
		Chilliwack	321	Chilliwack	(BO)	321
		New Westminster	911	Delta	(AD)	152
				Richmond	(AD)	286
				New Westminster	(CLO)	473
		Powell River	124	Gibsons	(AD)	42
				Powell River	(AD/CLO)	82
		Surrey	1026	Langley	(BO-PAR)	219
				Surrey	(BO)	807
		Maple Ridge	223	Maple Ridge	(CLO)	223
		Vancouver	2052	North Vancouver	(AD)	238
				Vancouver	(BO)	1745
				Squamish	(AD)	69
VANCOUVER ISLAND	2346	Campbell River	326	Campbell River	(BO)	326
		Nanaimo	811	Ladysmith	(AD)	247
				Port Alberni	(C)	184
				Nanaimo	(BO,CLO)	380
		Victoria	1209	Victoria	(AD/CLO)	1209
CENTRAL INTERIOR	776	Hazelton	41	New Hazelton	(NCLO)	41
		Prince George	571	Prince George	(BO)	565
				Mackenzie	(AD)	6
		Smithers	139	Smithers	(AD/CLO)	139
		Burns Lake	25	Burns Lake	(NCLO)	25

* Sample year October 1, 1981 to September 31, 1982 (one year prior to initial restraint measures)

TABLE 2-57

FAMILY REPRESENTATIONAL SERVICES:
CONTACTS, 1982

(Continued)

REGION		ADMINISTRATIVE AREA		OFFICE SERVICE AREA		
NORTHERN	313	Dawson Creek	174	Dawson Creek,	(BO)	165
				Chetwynd	(AD)	---
				Dease Lake & Cassiar	(C)	1
				Fort Nelson	(AD)	8
		Fort St. John	139	Fort St. John	(BO)	139
NORTH WEST COAST	346	Queen Charlottes, Prince Rupert	346	Masset & Skidegate, Prince Rupert	(NCLO,BO)	191
				Terrace	(AD)	145
				Bella Bella	(C)	10
CARIBOO	398	Williams Lake, Quesnel	398	Williams Lake,	(BO)	398
				Quesnel	(AD/CLO)	
				PROVINCE TOTAL = 11797		

TABLE 2-58

CIVIL NON-FAMILY SERVICES
CONTACTS, 1982*

REGION		ADMINISTRATIVE AREA		OFFICE SERVICE AREA		
EAST KOOTENAY	124	Cranbrook	124	Cranbrook	(BO)	124
				Golden	(AD)	
CENTRAL KOOTENAY	365	Nelson	365	Nelson	(BO)	314
				Kaslo	(AD)	—
				Trail	(AD)	49
				Nakusp	(AD)	2
OKANAGAN	1324	Vernon	99	Revelstoke	(AD)	4
				Salmon Arm	(AD)	22
				Vernon	(BO)	73
		Kelowna	227	Kelowna	(BO)	227
		Penticton	998	Penticton	(CLO)	998
KAMLOOPS INTERIOR	1270	Kamloops	549	Kamloops	(CLO/AD)	546
				Lillooet	(AD)	3
		Merritt	721	Merritt	(NCLO)	721
GREATER VANCOUVER	9989	Abbotsford	1165	Abbotsford	(H)	1665
		Burnaby	239	Burnaby	(BO)	239
		Chilliwack	363	Chilliwack	(BO)	363
		New Westminster	2770	Delta	(AD)	74
				Richmond	(AD)	151
				New Westminster	(CLO)	2545
		Powell River	905	Gibsons	(AD)	4
				Powell River	(CLO/AD)	901
		Surrey	628	Langley	(BO-PAR)	188
				Surrey	(BO)	440
		Maple Ridge	720	Maple Ridge	(CLO)	720
		Vancouver	2699	North Vancouver	(AD)	156
				Vancouver	(BO)	2517
				Squamish	(AD)	26
VANCOUVER ISLAND	3628	Campbell River	205	Campbell River	(BO)	205
		Nanaimo	991	Ladysmith	(AD)	47
				Port Alberni	(C)	98
				Nanaimo	(BO,CLO)	846
		Victoria	2432	Victoria	(CLO/AD)	2432
CENTRAL INTERIOR	1807	Hazelton	224	New Hazelton	(NCLO)	224
		Prince George	394	Prince George	(BO)	390
				Mackenzie	(AD)	4
		Smithers	1183	Smithers	(CLO/AD)	1183
		Burns Lake	6	Burns Lake	(NCLO)	6

* Sample year Oct. 1, 1981 to Sept. 31, 1982 (one year prior to initial restraint measures)

TABLE 2-58

**CIVIL NON-FAMILY SERVICES:
CONTACTS, 1982**

(Continued)

REGION		ADMINISTRATIVE AREA		OFFICE SERVICE AREA		
NORTHERN	270	Dawson Creek	150	Dawson Creek, Chetwynd	(BO) (AD)	146
				Dease Lake & Cassiar	(C) (C)	1
				Fort Nelson	(AD)	3
		Fort St. John	120	Fort St. John	(BO)	120
NORTH WEST COAST	1502	Queen Charlottes, Prince Rupert	1502	Masset & Skidegate, Prince Rupert	(NCLO,BO)	1456
				Terrace	(AD)	46
				Bella Bella	(C)	0
CARIBOO	1658	Williams Lake	1658	Williams Lake, Quesnel	(BO) (CLO/AD)	1658
					TOTAL =	21937

CHAPTER 3

IMPACT AND QUALITY ANALYSES

1.0 INTRODUCTION

Chapters 1 and 2 described the history and organization of legal aid in British Columbia, the patterns of service delivery, and eligibility and accessibility patterns. Chapter 3 describes the impact of legal aid and reports the results of several discrete quality studies. The previous chapters examined the scope of services delivered by the LSS local service offices and the accessibility patterns of these services across the province. At some point in the evaluation process additional questions must be asked: What is the impact of providing representational services? Does it matter if a potentially eligible individual receives representation? What happens to individuals who do not receive services? Are staff and private lawyers providing similar services and are their clients obtaining similar outcomes? These and other related questions were explored by interviewing clients, analyzing court records, and analyzing LSS records.

This chapter is divided into two major sections. The first section describes the impact analyses which were performed as part of the evaluation. The second section describes the results of a series of studies touching issues of the quality of legal aid services. In the quality section special emphasis is placed on a descriptive analysis of paralegals.

1.1 IMPACT ANALYSIS

It is generally assumed by any organization that delivers services that those services have a positive impact or produce some good. This assumption should be checked. Services often have differential impacts, helping some but not helping others. The research reported in this chapter examined the impact of a broad range legal aid services provided directly to clients by the Legal Services Society.

The impact analysis involved two major sub-analyses:

- An impact analysis of legal aid representational and summary advice services, that is lawyer services available after an eligibility test and summary advice services available to all residents of British Columbia without an eligibility test; and

- An analysis of how well legal aid is reaching potential clients in two generic legal problem areas.

Analysis of how well services reach potential clients was limited to two problem areas: divorce and unemployment insurance appeals. It was not possible, within the fiscal limits of this evaluation, to look at all problem areas. The specific reasons for picking divorce and unemployment insurance appeals will be described later in the chapter. These two sub-studies should be viewed as a "first step" in assessing the impact of legal aid.

A general framework for the analyses will be presented before these impact studies are described.

1.1.1 Impact Framework

Analysis of the impact of a service is potentially unbounded. To proceed with any analysis of the impact of a service, it is necessary to develop a framework that identifies and categorizes the consequences of the provision of that service. A legal aid framework should include at least three parts:

- an identification of major groups affected by legal aid;

- an identification of the types of impacts that might be analyzed; and

- an identification of the specific services included in the analysis.

1.1.1.1 Identification of Impact Groups

For direct client services there are four major impact groups;

- clients;
- potential clients;
- justice system personnel;
- justice system operations.

1.1.1.1.1 Clients and Potential Clients

The primary people affected by legal aid are those who receive it. What does legal aid do for them? In order to measure the impact of legal aid on clients, it is necessary to have a reference group. For legal aid clients the logical reference group is composed of those individuals who are eligible for legal aid, but do not apply for it. What happens to eligible non-applicants? Do they obtain private representation? Do the outcomes of their legal problems differ from the outcomes of people who received legal aid?

A second natural reference group consists of those people found ineligible for legal aid services, but who might have been considered eligible if qualification standards had been slightly different? This is not as good a reference group, but it does provide comparisons at the margin.

The operational difficulties of identifying individuals in these two reference groups are described later, but ideally an analysis of the impact of receiving legal aid includes a comparison of what happens to those individuals receiving legal aid with those who could have received legal aid but did not apply, and those who were not eligible for legal aid, but fell on the borderline of eligibility/ineligibility.

1.1.1.1.2 Justice System Personnel and Operations

The provision of legal aid has effects throughout the justice system (and the broader social welfare system). For example, the presence of legal counsel influences the operation of the court system and administrative tribunals. The presence of legal counsel may speed up or slow down proceedings. The presence of counsel facilitates procedural propriety and administrative fairness even when it does not affect case processing time. If the presence of counsel influences case outcome, then the provision of legal aid impacts on the correctional system in criminal cases and the social welfare system in civil matters. The provision of legal aid has financial effects on the legal profession by generating a pool of paid-for-clients who otherwise might not obtain any legal services, or, at any rate, might not pay for services received.

The chains of impacts that could be considered are enormous. A full impact analysis exploring these chains was beyond the scope of this evaluation. While analysis of the impact of legal aid on justice system personnel and operations would clearly be of value to public administrators, the primary concerns of this evaluation focussed on clients receiving legal aid. The impact of legal aid on individuals who received it was compared with the experiences of rejected legal aid applicants and individuals who never applied for legal aid but probably would have been eligible if they had applied (eligible non-applicants). The impact of legal aid on the justice system and legal profession was not directly addressed in the study.

Many studies of legal aid use clients of the private bar as a reference group. This evaluation did not study individuals represented by the private bar who were not legally aided. Clients of the private bar, that is, individuals who were not eligible for legal aid, even under some expanded version of legal aid were not used as a reference group. The technical difficulties of gaining access to these private clients and the methodological difficulties in comparing their outcomes to legal aid client outcomes precluded their use in the evaluation study. Generally, private clients differ from legal aid clients in both their socio-economic background and their legal problems. If a sample of private clients were found to have received different outcomes, it would be impossible to determine whether their type of represention (non-legal aid) or their differences from legal aid clients produced the varying outcomes.

1.1.1.2 Types of Impacts

There are several types of impacts which can be measured:

- Representation patterns;
- Procedural and substantive legal outcomes;
- Social-psychological outcomes for clients;
- Economic outcomes.

1.1.1.2.1 Representational Patterns

An obvious major result of being accepted for legal aid is access to a lawyer or lawyer-type service. The receipt of a lawyer's service is the primary impact for accepted clients. What happens to rejected applicants? Do they obtain legal representation? Do they represent themselves? What happens to individuals who would have been eligible for legal aid if they had applied? Do they retain lawyers? Do they represent themselves? The evaluation included an analysis of the proportions of rejected applicants for criminal, family and civil non-family representational services and of eligible non-applicants in selected problem areas who managed to obtain legal representation after all.

1.1.1.2.2 Legal Outcomes

Legal actions have official outcomes: Was the accused found guilty in a criminal case? Did the client gain custody of the child? Was the client deported? Was the case dropped? Were non-legal solutions worked out? The evaluation included an analysis of the outcomes of the legal problems presented by legal aid applicants.

1.1.1.2.3 Social-Psychological Impacts

The legal system is potentially frightening to the people caught up in it. There may be well-defined procedural means for solving a legal problem, but an individual who is experiencing the judicial system for the first time may not know or understand them. Procedures which seem slow and straightforward to judges and lawyers may seem hasty, confusing and frightening to laymen.

The provision of legal aid services has potentially positive social-psychological impacts on clients. Independent of the legal outcome, legal aid services may reduce fear and minimize the negative psychological consequences of court appearances. Analyses of these impacts are of potential interest, but, except for measuring client satisfaction, were beyond the scope of this evaluation. The evaluation was limited to determining the pattern of representation and legal outcomes, and analyzing basic client satisfaction. The determination of social-psychological impacts is a major research project far exceeding the total scope of this evaluation and will not be addressed at this time, but should be addressed at some point.

1.1.1.2.4 Economic Impacts

Legal aid has a series of economic impacts on individual citizens, on the bar, on the justice system, on the social welfare system, on government, and on the public purse. Analysis of economic impacts in each area are of potential interest to the recipients, the providers, and the funders of legal aid. Analysis of the economic impacts of legal aid, however, was not part of the mandate for this evaluation. They are considered only indirectly and tangentially in the outcome and client satisfaction analyses.

1.1.1.3 Identification of Specific Services

As discussed in Chapter 1, Legal Aid is a term which can be applied to a wide range of legally related services directed to the poor. In this evaluation the focus was on direct client services such as representation and case specific advice or information. The services included in the impact analysis were limited to direct client services.

Three types of direct client services were studied:

- Lawyer services provided by private counsel and staff counsel;
- Summary advice services provided in LSS service offices; and
- Referral services provided to rejected applicants for lawyer services.

Lawyer services were, in turn, analyzed two ways:

- by problem area, that is, criminal, family, and civil non-family services; and
- by who provided the service, staff counsel or private lawyer.

Summary advice services, because of the range of problems presented, were primarily analyzed at an aggregate level. The services provided to rejected legal aid applicants were analyzed by problem area. Services provided for rejected criminal tariff applicants, rejected family tariff applicants and rejected civil non-family applicants were analyzed separately.

In addition to these services, the evaluation looked at two specific, narrower services in a case study/selected analysis. Special attention was given to legal aid services provided to persons seeking divorces and to persons appealing to Unemployment Insurance Commission decisions.

The impact analysis will not attempt to answer all potential impact questions but will focus on basic questions which relate to representational patterns, legal outcomes and basic client satisfaction with services received.

1.1.2 Data Sources

1.1.2.1 Applicant Survey

An applicant survey was conducted during the course of the evaluation. This survey was described in Chapter 2 and will be reviewed here. Applicants coming into offices across the province were sampled. A quota sampling technique was used: each service office was assigned a quota of applicants who consented to subsequent interview by the evaluation team. Quotas were based on historical patterns of application volumes in each office. Office staff were supposed to ask all persons coming into the office for their consent. The sampling began on a fixed date and ended when the quota was filled. The overall sample which was drawn represented the mix of clients across the province. Both accepted and rejected applicants with criminal, family, and civil non-family problems were sampled. Individuals coming into offices and asking for summary advice only were also sampled. The sampled legal aid applicants and summary advice clients were contacted by telephone and interviewed.

Based on the quota sample, 200 individuals were sampled in each of five categories: accepted criminal tariff applicants; accepted family tariff applicants; rejected criminal tariff applicants; rejected family tariff applicants; and summary advice clients. One hundred accepted civil non-tariff applicants and 100 rejected civil non-tariff applicants were also sampled. The civil non-tariff total was lower because the overall volume of civil non-tariff cases is quite low. Fifty-seven percent (116) of the accepted criminal tariff applicants were successfully contacted and interviewed. Forty-seven percent (94) of accepted family tariff applicants were contacted and interviewed. Sixty-seven percent (134) of the rejected criminal tariff applicants were contacted and interviewed and 63 percent (125) of the rejected family applicants were interviewed. Eighty-nine percent (177) of the sampled summary advice clients were interviewed. Civil non-tariff applicants proved more difficult to contact. Only 41 percent of the accepted civil non-tariff and 25 percent of the rejected civil non-tariff clients were successfully contacted and interviewed.

The applicant survey provided four important types of information to the impact analysis. First, it provided data on patterns of legal representation among accepted and rejected applicants. Second, it provided information on follow-through by rejected applicants and summary advice clients: whether and how far they took action upon the advice given them at LSS service offices. Third, it provided data on client and rejected applicant satisfaction with the treatment and services they received at LSS service offices. Fourth, the applicant survey provided information about clients' and rejected applicants' perceptions of case outcome.

Representation patterns constitute an obvious direct measure of the impact of legal aid. Whether rejected applicants obtain legal representation and how they obtain it provides a direct reflection of the impact of the legal aid plan. It indicates the probable fate of legal aid clients in the absence of the plan.

Follow-through patterns constitute another direct measure of the impact of legal advice. From a pragmatic perspective, legal advice can only have a positive impact if the client understands it sufficiently well to follow through.

Client satisfaction and client perceptions of outcome matter a great deal. What the client (or rejected applicant) thinks he or she was told, rather than what the lawyer or paralegal actually said, is, pragmatically, the actual service delivered. In the delivery of legal aid, legal content is inevitably tied to the communication of information to the client. Moreover, the common law system of justice requires not only that justice be done, but that justice be seen to be done. While the technical judgments of lawyers and judges constitute an appropriate measure of the first goal, the perceptions of rejected applicants and legal aid clients constitute a principal measure of the impact of the legal aid system on public perceptions of justice.

There are several potential biases built into this sampling method which should be noted and considered when interpreting results. First, two offices (Powell River, and Quesnel) refused to cooperate and obtain client consents. The results of the interviews, while generally representing provincial patterns, cannot be considered to reflect client or applicant views in the areas where offices did not cooperate. It was unfortunate that these offices did not cooperate, but there was no way to mandate compliance. Along the same lines, applicants going to Area Directors' offices were not interviewed. Results cannot be generalized to regions served by Area Directors.

Second, only those individuals who gave advance consent were contacted and interviewed. A requirement that only those people giving advance consent may be contacted and interviewed is a common condition in contemporary social research. This requirement, while respecting legitimate concerns about individual privacy, potentially biases results. It is not known whether individuals more favourable to legal aid are more or less likely to give advance consent to be interviewed. The bias cannot be determined unless non-consenting individuals are interviewed, and that is impossible. Several offices would not, because of their stated concerns about client confidentiality, supply background information on non-consenting individuals. Consequently, it was not even possible to estimate the potential bias indirectly.

Third, interviews were conducted over the telephone. This may have produced some bias because individuals without phones or easy access to a phone may not have given consent to be interviewed. While the sample did include some persons without phones who made arrangements to be interviewed outside their home, it is unlikely that persons without phones were adequately represented. It was not possible with available funds to do face-to-face interviews.

Fourth, there may have been biases built into the pattern of which applicants could be contacted. The less mobile, more stable applicants may have been easier to contact.

Fifth, the sample was taken during the initial restraint period (October 1, 1982 to March 31, 1983). Coverage varied during 1982 and 1983. During the initial restraint period an urgency test was added to the problem coverage test used for family and civil problems. The samples of accepted and rejected applicants are, therefore, not "pure" groups, but overlap in characteristics.

There are clear limitations on the information collected in the interviews. The results of analyzing the interview data must be interpreted with care. It would be best to consider the results as a first approximation of applicant views. Based on these results, future evaluation research might be planned to look at fine distinctions and to explore the views of clients once service levels stabilize.

1.1.2.2 Court Records

Information about representational patterns for rejected criminal legal aid applicants in Vancouver was collected from the Provincial Court Processing System (PCPS), a computer-based case processing system used in British Columbia. This system records, among other things, whether individuals were represented in court and includes the name of the "counsel". The PCPS does not distinguish between members of the bar, articling students or others who might speak for the accused. By cross-checking the names of "counsel" recorded in the Provincial Court Processing System against lists of members of the bar it was possible to verify whether individuals were represented by lawyers. For rejected criminal legal aid applicants in Vancouver it was possible to determine what proportion retained counsel privately. This part of the analysis was limited to Vancouver for technical reasons. Information was matched from the new information system developed by the Legal Services Society to the PCPS. At the time the analysis was performed only the Vancouver Branch Office was operating under the new information system, effectively limiting the analysis. The LSS might want to repeat the analysis now that all offices are on their new system.

1.1.3 The Impact of Legal Aid in Family Law Tariff Matters

Applicants for family tariff services may either be accepted for legal aid and referred to a private lawyer or to staff counsel, or have their applications rejected because their problem is not covered by the tariff or because they are financially ineligible. Rejected applicants may retain counsel at their own expense or may end up without legal representation. Table 3-1 contains the results of asking rejected family tariff applicants whether they retained a lawyer after they were rejected for legal aid.

As can be seen from the table, an overwhelming majority of rejected family legal aid applicants said they ended up without legal representation. As might be expected, more of the individuals rejected on financial grounds subsequently retained counsel than did those who were rejected for problem coverage reasons, but in neither group were representational rates high.

Rejected family law applicants were frequently referred to other sources of aid (Table 3-2). About 6 percent of those who reported being rejected for problem coverage reasons said they were referred to private counsel by staff in the LSS office. Over 30 percent of those rejected for financial reasons reported being referred to private counsel.

While the numbers of people in the sample being referred were small, the pattern is clear. Individuals were frequently referred to private counsel when they were found ineligible financially. Applicants rejected on any grounds were frequently told to try the Lawyer Referral Service. This is a service of the Law Society through which individuals can obtain one time, short service advice from a lawyer for a small fee. Most of the people who reported being referred to private counsel (referrals were often

Table 3-1

Family Tariff Representation Patterns

	REPRESENTED	NOT REPRESENTED
Accepted for Legal Aid	116 100%	0 0%
Rejected Income	7 25%	21 75%
Rejected Problem Coverage	5 11%	40 89%

Chi Square = 144.46 d.f. = 2 p = .000

Table 3-2

Referral Patterns for Rejected Family Tariff Applicants

REFERRED TO....	REJECTED COVERAGE	REJECTED INCOME
Private lawyer	3 6.1%	9 32.1%
Lawyer Referral Service	13 26.5%	10 35.7%
Other Agency	17 34.7%	4 14.3%
No Referral	16 32.7%	5 17.9%
TOTAL	49	28

Chi Square = 12.39 d.f. = 3 p = .01

generic-"go see a lawyer") or to the Lawyer Referral Service said they followed the advice and made the contact (Table 3-3).

Satisfaction with both private lawyers and the Lawyer Referral Service (LRS) was quite high. Eighty-five percent of those referred to other agencies or to lawyers through the LRS found them helpful. One hundred percent of those who hired members of the private bar found them helpful.

The pattern revealed by the interviews showed that offices were well situated within a referral network. When applicants were rejected they were not just turned away, but were normally sent somewhere else for help. Rejected applicants with family law problems usually followed the referral advice given to them and found that the services they received after referral were useful.

Rejected family tariff applicants were generally satisfied with the advice and information they received (Table 3-4). Over two-thirds of the people interviewed expressed satisfaction with the amount and type of information they were given. Most people said they remembered the advice they were given and followed through with the advice.

While the LSS has developed a range of written information to help local offices and additional written information is available from other sources, surprisingly few people remembered receiving any written materials such as pamphlets. Those who did remember receiving written material indicated that they read it (90 percent) and generally found it useful (63 percent - 78 percent).

The low level of reported receipt of written materials deserves future examination. The LSS should determine whether offices are not using available written aids or whether applicants are merely forgetting that they were given written materials. If offices are not using written aids, the LSS should determine whether this is because the written aids cover an insufficient number of topics or are of insufficient quality, or whether instead office staff just neglect to hand out materials. It is possible that the fact that the interviews were conducted during a restraint period may have produced an inaccurate measure of the use of written materials when viewed over a longer period. Restraint changed the type of problems which rejected applicants had. The pre-restraint pamphlets designed for self-help and information may not have been appropriate for many of the "new group" of rejected applicants. The LSS is

TABLE 3-3

ACTIONS OF REJECTED FAMILY TARIFF APPLICANTS

ACTION	REJECTED COVERAGE	REJECTED INCOME	TOTAL
Followed through on advice	26 79%	16 73%	42 76%
- contacted private lawyer	3	6	
- called lawyer Referral Service	10	6	
- Contacted agency	13	4	
Did not follow through on advice	7 21%	6 27%	13 24%
- did not contact private lawyer	0	2	
- did not call Lawyer Referral Service	3	4	
- did not contact agency	4	0	

Chi Square = .27 d.f. = 1 p = .60

Table 3-4

SATISFACTION OF REJECTED FAMILY TARIFF APPLICANTS WITH INFORMATION AND ADVICE RECEIVED

		REJECTED COVERAGE	REJECTED INCOME
1. Satisified with amount and type of information given?	yes	35 71.4%	19 67.9%
	no	14 28.6%	9 32.1%
2. Provided with any written material?	yes	12 24.5%	10 35.7%
	no	37 75.5%	18 64.3%
3. Did you read the materials?	yes	11 91.7%	9 90%
	no	1 8.3%	1 10.0%
4. Did you find the material useful?	yes	7 63.6%	7 77.8%
	no	4 36.4%	2 12.2%
5. Do you remember the advice or information given to you?	yes	41 85.4%	23 92.0%
	no	7 14.6?	2 8.0%
6. Were you able to follow through with the advice you were given?	yes	30 73.2%	17 73.9%
	no	11 26.8%	8 26.1%

engaged in developing new pamphlets. With new pamphlets covering a broader range of problems, the use of written materials might increase.

The outcomes obtained by family tariff clients were compared with the outcomes for persons rejected for coverage reasons. Determining the outcome in a criminal case is relatively straightforward: the charge abandoned or prosecuted; if prosecuted, the accused is found guilty or not guilty. Determining outcome for family problem cases is a more difficult task. It can be determined whether a divorce or custody order was granted. Determining whether a divorce settlement was what it should have been is more complex. The degree of success or satisfaction attached to a family action depends on who is making the judgment. Lawyers and clients may have different perspectives. It is certainly possible for a lawyer to view an outcome as successful and the client to consider the outcome to be unsuccessful or the converse. In this evaluation clients and rejected applicants were asked, from their perspective, whether they considered the outcomes of their cases successful, partially successful or unsuccessful.

Only those persons whose cases were complete were asked about success. Many family cases take an extended period of time. People were interviewed about six months after they came into the LSS office. With this delay between the LSS contact and the evaluation interview, 50 percent (116) of the accepted family tariff cases were complete, and 36 percent (64) of the rejected family cases were complete.

The results of the outcome analysis for family tariff cases are shown in Table 3-5. The figures in the table represent completed cases of interviewed family tariff clients and of interviewed reject applicants for whom it was possible to determine the specific reasons for rejection. For completed rejected applicant cases about 80 percent reported either coverage or financial reasons as the sole grounds for their rejection. The others reported combinations of reasons. When those rejected for problem coverage reasons or financial reasons were further broken down into reported outcomes, the numbers became quite small. A slightly higher proportion of accepted applicants had completed cases at the time of their interviews than did rejected applicants.

In family law cases most tariff clients (72 percent) believed the problem was resolved in their favour. This proportion was surprisingly high given the complexity of the social and financial circumstances surrounding family tariff

Table 3-5

FAMILY PROBLEMS
OUTCOMES FOR COMPLETED CASES

Family Problems	ACCEPTED	REJECTED	
		COVERAGE	INCOME
1. Problem resolved in applicants favour.	42 72.4%	9 64.3%	4. 44.4%
2. Partially successful.	4 6.9%	1 7.1%	0
3. Unsuccessful.	5 8.6%	0	0
4. Case was dropped.	7 12.1%	4 28.6%	5 55.6%
	58	14	9

For table including rejected for financial reasons
chi square = 11.76, d.f. = 6, p = .07
- note: most cell frequencies are below 5

For table not including rejected for financial reasons
chi square = 1.28, d.f. = 3, p = .52

cases. Over 60 percent of those individuals rejected for services because the problem was not covered by the legal aid plan believed the problem was resolved in their favour. While the numbers are quite small, a relatively high proportion of rejected applicants indicated that they dropped their case. A much smaller proportion of accepted applicants dropped their cases. Once again the low number of cases mitigates against strong conclusions for rejected applicants. It can be safely concluded that family tariff clients perceived high levels of success.

1.1.4 The Impact of Legal Aid in Civil Non-Family Matters

Civil non-family applicants were also interviewed. Civil problems, other than family, are handled either by staff counsel or by members of the private bar on a pro bono publico basis. These civil problems are varied and range in complexity. Individuals come to the Legal Service Society offices with debt problems, banruptcy problems, foreclosure problems, insurance problems and many other legal problems generally classified as poverty law problems.

Analyzing such a broad range of legal problems is difficult. Civil non-family cases represent a small proportion (around 5 percent) of the total number of cases in which representational services are provided. If this small proportion is broken down by detailed legal problems, the number of individuals presenting problems in each category become quite small and almost impossible to analyze through any reasonably sized sampling procedure. In this evaluation applicants for all civil non-family lawyer services were considered as one group. Even so, the sample size was relatively small (66).

Considering all applicants for civil non-family services as one group adds complexity to the analysis of case outcomes. Success in a foreclosure case may just be a delay in the foreclosure. Success in a civil suit for damages may vary with the settlement. In this evaluation success in civil non-family cases was determined by the client or applicant: success was subjectively defined. Since success was subjectively defined, the importance of lawyer/client communication was magnified. The client's expectation of outcome may be shaped by the lawyer much more extensively in civil non-family cases than in criminal or family tariff cases. Clients may not know what to expect until the lawyer "defines" the potential outcomes and assesses the risks. Measures of success reflect both legal outcome and lawyer/client communication.

The civil non-family applicant survey has one other characteristic which should be noted. The rules for accepting and rejecting criminal and family tariff applicants were well defined, if not fixed, during this period of restraint programming. The rules in civil non-family cases were not as well defined and provision of services was far more discretionary.

Civil non-family lawyer services must be provided either by staff counsel as part of their salaried workload or by members of the private bar without remuneration on a pro bono basis. As described in Chapter 2, local service offices had difficulty making pro bono referrals in many parts of the province. The availability of civil non-family services, therefore, rested primarily with staff counsel, and was limited by their time constraints. In addition to constraints in those areas of the province served by LSS offices, regions served by Area Directors had no staff counsel and consequently relied solely on pro bono referrals. While civil non-family coverage is a small part of the total representational services delivered, it is a problem area where whether an applicant receives services clearly depends on where the applicant lives. Consequently, in the civil non-family category, there are potentially fewer differences between accepted and rejected applicants than in criminal or family tariff groups.

The rules for accepting or rejecting civil non-family applicants potentially blur the distinctions between the two groups. In the Policies and Procedures Manual offices are instructed to provide civil non-family lawyer services....

> When [the applicant]...has a reasonable cause of action. The test...is whether if you were a private practitioner, having regard to the likelihood of success or failure, the time and costs involved, and the importance of the issue to the client, you would recommend your client to proceed. (p. 6-18)

With these limitations in mind, the results of the survey of civil non-family applicants were similar in many respects to the results of the survey of family tariff applicants. Of the 66 individuals interviewed, 41 received services from a lawyer through legal aid; 25 were refused lawyer services by legal aid. Nine of those refused legal aid subsequently retained private counsel. Five of those who retained private counsel were rejected for legal aid because their incomes were too high; four were rejected for coverage reasons. Sixteen rejected applicants failed to retain private counsel. Of these, only 3 were rejected because their incomes were too high.

Unlike family tariff applicants, most rejected applicants were not referred to other sources of assistance. Thirteen of the 24 rejected applicants who responded to a question about referrals stated that they were not referred to anyone or any group. This lower level of referral when compared to family cases probably reflects the diversity of specific problems classified as civil non-family and the lack of other services to handle these problems. It may also reflect a judgment that the problem presented by the applicant cannot be addressed through legal means or can be addressed sufficiently in the one meeting when the applicant is interviewed.

While few persons were referred to other sources of aid, eighty percent (20) of rejected civil non-family applicants were satisfied with the amount and type of information they received. Only one rejected civil non-family applicant remembered being given any written material, but 22 of 25 rejected applicants said they remembered the advice they were given and 16, or 73 percent, said they followed through on the advice.

Client and rejected applicant views of case outcomes were mixed. Sixty-one percent of accepted applicants thought their problems had been resolved partially or fully in their favour (see Table 3-6). About 40 percent saw the resolution as totally in their favour. Thirty-five percent, however, considered the outcome unsuccessful.

It is difficult to interpret this distribution of "success". As previously described, these are measures of clients' views of success, not objective or legal judgments. In the family area only 8.6 percent of clients thought of their case outcome as unsuccessful. The higher proportion for civil non-family clients does raise some issues the Legal Services Society should explore. The evaluation sampled civil non-family clients. The numbers in the study are too small to form strong opinions. The Society should consider a follow-up survey of a higher proportion of civil non-family clients to determine if the high percentage of unsuccessful cases found in this evaluation survey persists and to determine why clients think their cases are unsuccessful. The lack of perceived success may just be a misperception on the clients' part formed by not understanding the range of results likely from a legal action or it may represent an inherent failure rate

TABLE 3-6

CIVIL NON-FAMILY PROBLEMS

OUTCOMES FOR COMPLETED CASES

	ACCEPTED	REJECTED COVERAGE	REJECTED INCOME
Problem resolved in applicant's favour	9 39.1%	4 33.3%	2 100%
Partially successful	5 21.7%	5 41.7	0 0%
Unsuccessful	8 34.8%	2 16.7%	0 0%
Case dropped	1 4.3%	1 8.3%	0 0%
	23	12	2

The Chi Square for table excluding rejected for financial reasons:

Chi Square = 1.13, d.f. = 3, p = .77

across a range of civil actions or it may represent a quality problem in providing services across broad ranging, low volume poverty law problem areas where legal technical expertise is difficult to develop. If the Legal Services Society wishes to increase efforts in the civil non-family area, then additional research should be undertaken. There is the possibility that there is a problem with the quality of lawyers' services provided to civil non-family clients or with communications between lawyers and clients.

1.1.5 The Impact of Legal Aid in Criminal Cases

It was even more difficult to estimate client satisfaction levels or outcome patterns for criminal legal aid applicants than for family or civil non-family applicants. Those who applied for legal aid were, before restraint, largely accepted or rejected on the basis of their probability of being incarcerated upon conviction. Since many people who received legal aid for criminal matters went to jail, it was difficult to trace people for interviews, particularly telephone interviews. To gain some picture of what happened to criminal legal aid applicants, court records were searched. It was financially impossible to manually search court records across the province. The analysis was done through computerized records and for technical reasons previously described was limited to the Vancouver Provincial Court, the highest volume court in the province.

The analysis specifically tracked what happened to individuals rejected for criminal tariff coverage. People can be rejected both for financial reasons (generally, income too high) or problem coverage reasons (problem not covered by the tariff). Individuals applying for legal aid at the Vancouver Branch Office during the last quarter of 1982 were sampled. This three month period marked the installation of the LSS's new computer system in Vancouver. Names of applicants were recorded in this system, making it possible to track what happened to them in other data systems such as the court data system.

The ultimate goal of sampling was to follow 100 accepted and 100 rejected applicants through the Vancouver court system. Beginning with data from October 1, 1982, the first 250 accepted applicants with completed cases were identified. The first 250 rejected applicants were also identified. These names were selected from applicants during the initial restraint period. Persons were accepted if there was a probability of jail. The previous coverage rule was based on the possibility of jail. As described in

Chapter 1, coverage was further reduced after the sample period, then increased after the Mountain decision. The names of these 500 applicants were matched against the computerized court records of completed cases in the Vancouver Provincial Court as of the end of March, 1983. Of these, there were 131 matches for accepted criminal legal aid applicants and 99 matches for rejected legal aid applicants.

The computerized court records contained information about representation at court appearances and data on case outcomes. The computerized court records contained the name of "counsel", if any, representing the accused at a court hearing. The names of the identified "counsel" were checked against bar membership lists and lists of both articling students and students participating in the University of British Columbia clinical program so that lawyers could be positively identified. By this matching process it was possible to determine the proportion of rejected applicants who retained private counsel.

The records of individuals tracked through the provincial court system were broken down into four groups: records of persons accepted for legal aid; records of persons rejected for legal aid because their problem was not covered by the tariff, but who were financially eligible for legal aid; records of persons who were financially ineligible for legal aid; and records of persons who were rejected because their problem was not covered by the tariff who were also ineligible financially. There is potential overlap between the last two groups. Together they represent records of persons who were financially ineligible.

There are two biases built into this analysis which should be considered when interpreting the results. First, the time frame of the analysis was such that there was a bias towards cases which were completed within six months and consequently there may be a disproportionate number of guilty pleas. Second, it was not possible in the analysis to identify those persons for whom there were multiple court proceedings. It was assumed that if a person was represented by legal aid in some proceeding that person was represented by legal aid for all proceedings. In the analysis, the outcomes for multiple proceedings beginning at the same time (linked informations) were collapsed into one outcome. If a person was found guilty in one proceeding or given a jail term then that was considered to be the outcome for the linked informations. This produces overall guilty and incarceration rates higher than what would be found if proceedings were analyzed completely separately where guilty outcomes and stays are frequently found in linked informations.

1.1.5.1 Coverage Decision

The first fact that should be noted from the analysis of court records is the high discrimininiation power of the coverage decisions made in the Vancouver Branch Office. A person who qualified financially was accepted or rejected for legal aid based on the probability that he/she would be sentenced to a term of incarceration if convicted. Of 40 persons rejected for legal aid on problem coverage grounds who were convicted only 5 were ultimately sentenced to jail (Table 3-7).

The problem coverage decisions accurately separated those going to jail from those not incarcerated. Few persons rejected for legal aid on the grounds that there was a low probability of incarceration were actually incarcerated. Inaccurate estimations of risk were not being made by LSS staff.

About 31 percent of persons accepted for legal aid and convicted received no jail term. It was not possible to know whether this happened because the Crown's case was weak, the LSS misjudged the probability of incarceration or the legal representation received through legal aid helped reduce the sentence. To reduce the proportion found guilty but not sentenced to a term of incarceration below this level would probably produce increased numbers of individuals being incarcerated without benefit of counsel.

1.1.5.2 Representation Patterns

The pattern of representation for those rejected for legal aid is shown in Table 3-8. It appears that rejected criminal legal aid applicants desired representation. Only 21 percent of those rejected for financial reasons or coverage and financial reasons (6 out of 29) ultimately were self-represented. About 60 percent (18 of 29) retained private counsel. Those rejected solely for coverage reasons, on the grounds that there was a low probability they would receive a jail term if convicted, similarly sought representation. A high proportion (28 percent) went to the UBC Law School Clinic and received aid through students. Twenty-three percent were self-represented. Forty percent retained private counsel. It was not possible with the available data to determine how the persons who retained private counsel paid for their services. Despite the low risk of incarceration it is clear legal aid applicants want representation.

TABLE 3-7

INCARCERATION PATTERNS* : VANCOUVER APPLICANTS

	JAIL	NO JAIL	TOTAL
Accepted	74 68.5%	34 31.5%	108
Rejected for coverage reasons	5 13.5%	32 86.5%	37
Rejected for financial reasons	5 62.2%	3 37.5%	8
Rejected for coverage who would have been ineligible financially	1 33.6%	2 66.7%	3

Chi Square = 34.37, d.f. = 3, p = .000

* Calculated for cases where accused was found guilty.

TABLE 3-8

REPRESENTATION PATTERNS: VANCOUVER APPLICANTS

	NOT REPRE-SENTED	LEGAL AID LAWYER	PRIVATE COUNSEL	UBC LAW STUDENT	* UNKNOWN
Accepted	0	31 100%	0	0	0
Rejected for coverage reasons only	16 22.9%	0 0%	30 42.8%	20 28.6%	4 5.7%
Rejected for financial reasons only	3 13.0%	0 0%	16 69.6%	1 4.4%	3 13.0%
Rejected for coverage who would have been ineligible financially	3 50%	0 0%	2 33.3%	1 16.7%	0 0%

* Status of person acting as "counsel" could not be determined. Person named, however, was not a member of the provincial bar.

The table does reflect the importance of the UBC clinic as a source of representation. The UBC clinic is clearly an important component of the legal aid scheme in Vancouver. Where there are no clinic services it is likely that a much higher proportion of rejected applicants are self-represented.

Interviews with applicants for criminal legal aid reinforced the view that rejected applicants considered their situation serious and had high desire to be represented. Telephone interviews were conducted with 427 accepted and rejected criminal legal aid applicants. The results of the interviews are probably biased towards the views of persons with stable backgrounds and persons accused of less serious offences. Persons in prison were not interviewed. Ninety-one percent of accepted criminal legal aid applicants considered their problems very serious (69 percent) or somewhat serious (22 percent). Eighty-five percent of the rejected criminal legal aid applicants considered their problems very serious or somewhat serious (57 percent very serious; 28 percent somewhat serious). When compared to self definitions of seriousness presented by family and civil legal aid applicants, both accepted and rejected criminal legal aid applicants had higher perceptions of seriousness than family or civil legal aid applicants. The perception of seriousness for criminal legal aid applicants is obviously tied to more than the possibility of jail since those with low probability of jail view their problems as serious.

In the interviews substantial proportions of both accepted and rejected legal aid applicants perceived the outcomes of their cases as better than expected (44% for accepted criminal legal aid clients and 35% for rejected criminal legal aid applicants).

Rejected criminal legal aid applicants in Vancouver still believe that their problems are serious and seek out representational services either from private counsel or from the UBC law clinic. The desire for representation is obviously high.

The relatively high rate at which those rejected for coverage reasons who were financially eligible retained private counsel (43 percent) raises questions which the LSS should address. The data from this evaluation did not make it possible to discover how much rejected applicants had to spend to retain counsel privately or what rejected criminal legal aid applicants had to do in order to obtain the money to retain counsel privately. People who are rejected for legal aid on coverage grounds are rejected because their problems are not likely to result in a jail term. The problems are more minor criminal matters and these rejected applicants may obtain representation at minimal cost.

The steps taken by rejected applicants to obtain counsel should be studied further. Because of the relatively high rate at which rejected applicants retained private counsel, the LSS should be able to carry out a financial review on a small sample, say about 100 clients.

The LSS has some checks on the eligibility status of accepted applicants. Referral counsel is responsible for monitoring the financial circumstances of the client and converting the client to a private fee basis if he or she determines that the financial information was incorrect or if the client's financial crcumstances change. Conversions to private fees occur infrequently in criminal tariff cases, but the possibility exists. The LSS also retains a private investigator to check financial eligibility. The investigator is used in all drug trafficking, conspiracy and commercial fraud cases and other cases which involve large amounts of money or goods of high value.

In interviews with office staff in 29 offices which do financial eligibility checks 17 reported never verifying financial information on applications. An additional 8 offices reported verifying information less than one percent of the time. Two offices estimated checks were done less that five percent of the time. The remaining two offices estimated doing checks on 75-80% of applications. In only one of these offices were checks made with official information sources such as the Ministry of Human Resources. One office indicated it checked all applicants who said they were on UIC. Another, which never did financial checks, said they tried a financial check once for a person who said he was on welfare but were refused the information from the Ministry of Human Resources. While the potential for administrative checks existed, checks were clearly not being made, with two exceptions, in routine cases. Several offices, in fact, indicated surprise when told that the LSS had an investigator to check the reliability of information on applications.

In response to this information, the LSS conducted a survey of 100 accepted criminal legal aid applicants. Of these, 73 claimed they were on social assistance. Checks with the Ministry of Human Resources confirmed that 63 were easily identified in Human Resources records. Ten were not easily identified. The LSS is following up on these individuals to determine whether, in fact, they are on welfare. In addition, the LSS is instituting a policy of regular random checks of eligibility for all accepted applicants. If there was any problem with incorrect financial information on application forms, and there most likely was not, the process of regular random checks should insure the integrity of the informaton and the fairness of the system.

1.1.6 The Impact of Summary Advice

In the interviews with applicants rejected for legal aid, almost all individuals remembered being given some form of advice and many remembered being referred to some other group or individual. Some people go to LSS offices or CLO offices just for advice, not to apply for lawyer services. A provincial sample of 173 persons seeking advice and information was interviewed to determine what happens to people just seeking advice.

While these individuals were not applying for services under the legal aid plan, their backgrounds were not all that different from legal aid plan clients. Persons going to the LSS offices for advice had average monthly incomes of $727, persons going to CLO's (and CLO/AD's) had average incomes of $791, a statistically non-significant difference. The average age for people going to both types of office was 34 years and the average number of years in school was 10 to 11. Individuals going to CLO's and CLO/AD's were more frequently repeat visitors (average of 2 visits per person in CLO's and CLO/AD's versus 1.6 visits per person at Branch Offices). Slightly more females than males went to offices for summary advice. About 25% of the individuals interviewed had previously been represented through the legal aid plan.

Most people who went to an office went there for advice about a debt problem. However, a broad range of other civil problems were presented including problems with wills, pensions, contracts, small claims, workers' compensation, U.I.C., and a range of minor criminal law problems.

While the individuals going to the local service offices were not asking for representational services, they did consider their problems serious (Table-3-9).

Individuals going to Branch offices perceived their problems as more serious than individuals going to CLO's and CLO/AD Offices. Over 80% saw their problem as having either an economic impact (loss of money) or a social impact

(impact on family). About 20% of those going to Branch Offices went to see a private lawyer first, but most did not return because of the expense. Over 90% of those going to Branch Offices chose not to go to a private lawyer or stay with a private lawyer because of the expense. Few individuals going to CLO's or CLO/AD Offices had seen a lawyer in private practice first (5%). Over 70% of those who did not go to a private lawyer first said they did not because of the expense. Another 20% said they only wanted advice and consequently a visit to a private lawyer was unnecessary. This misunderstanding of the role of lawyers (lawyers not giving advice), plus lack of knowledge about the lawyer referral service indicates that public awareness of lawyers and what they do is not very high.

The individuals receiving summary advice were overwhelmingly satisfied with the amount of time spent and work done by the offices on their behalf (Table 3-10). Over 85 percent of those interviewed were satisfied or very satisfied with time spent and work done. There were differences between the satisfaction levels of Branch Office clients and the clients of CLO's and CLO/AD's. Satisfaction levels were higher for services received from CLO's and CLO/AD's.

One possible reason for the higher satisfaction levels with time spent and work done at CLO's and CLO/AD's was that clients had more contact with CLO's and CLO/AD's. One third of those visiting CLO's or CLO/AD's said they made more than one trip to the office; about 40 percent said they also phoned the office. While the clients visiting CLO's and CLO/AD's perceived their problems as less serious, they made more frequent contact with the offices than those people going to Branch Offices. Only 17 percent of those people going to Branch Offices made more than one visit. Only 27 percent made phone contact. These are significantly lower percentages. The section of this chapter devoted to an analysis of the use of paralegals will further explore the differences between CLO's and Branch Offices. Those few people who were not satisfied primarily gave reasons such as "legal aid didn't do anything", or "I was treated abruptly".

Surprisingly, few people who went to the LSS offices or CLO's and CLO/AD's remembered receiving any written material or pamphlets. But those who did get pamphlets generally read them (80 percent) and found them helpful (88 percent). The use of pamphlets by LSS service offices was, apparently, infrequent, but when pamphlets were handed out people found them helpful. It was not within the scope of this evaluation to study which pamphlets were available and which

TABLE 3-9

PERCEIVED IMPACT OF PROBLEM

	VERY SERIOUS	SOMEWHAT SERIOUS	NOT VERY SERIOUS	NOT AT ALL SERIOUS
Branch Offices	70 64.8%	17 15.7%	16 14.8%	3 4.6%
CLO's & CLO/AD's	29 44.6%	17 26.2%	11 16.9%	8 12.3%
	57.2%	19.7%	15.6%	7.5%

TABLE 3-10

SATISFACTION WITH TIME SPENT AND WORK DONE BY OFFICE

	VERY SATIS-FIED	SATIS-FIED	DIS-SATIS-	VERY DIS-SATIS-FIED
BRANCH OFFICES	37 34.6%	53 49.5%	14 13.1%	3 2.8%
CLO's and CLO/AD OFFICES	39 58.2%	22 32.8%	5 7.5%	1 1.5%
	43.7%	43.1%	10.9%	2.3%

proved most useful. The LSS might wish to explore the use of pamphlets further in order to find out why these and other aids were used so infrequently in summary advice situations. One possible reason relates to changes in coverage rules. With reduced legal aid plan coverage there may have been a shift in the types of problems presented by people seeking summary advice. The people interviewed had been summary advice clients during the initial restraint period. The LSS may not have had time to adjust to the "new" mix of information and advice clients.

When asked what the office did for them, most individuals interviewed responded that they were "only" given advice or information (Table 3-11). A small proportion reported that some short service such as writing a letter, filling out a form or making a phone call was provided.

The specific advice provided varied as did the problems presented. Often the advice included specific instructions about what to do. Sometimes the advice was only that "nothing could be done" or "don't do anything".

The people who received summary advice mostly reported following the advice. Over 80 percent of people who went to Branch Offices reported following the advice. About 70 percent of people who went to CLO's and CLO/AD's reported following the advice.

When asked if they thought the outcome would have been any different if they had not gone for advice or information, 56 percent thought there would have been a difference. People thought they would have suffered financially or would not have reached the solution they did or would not have gained the knowledge they had without going. When asked if the results would have been different if they had gone to a private lawyer, 67 percent of those going to Branch Offices and 79 percent of those going to CLO's and CLO/AD's indicated they thought the results would have been the same. Twenty-three percent of Branch Office clients and 21 percent of CLO and CLO/AD clients thought the results would have been different if they had gone to a private lawyer.

The impact of the advice was viewed positively (Table 3-12). Over 50 percent thought the assistance had a major positive impact. An additional 20 percent perceived a minor positive impact.

TABLE 3-11

REPORTED RESULT OF SUMMARY ADVICE VISIT

ADVICE & INFORMATION	LETTERS PHONE CALLS RESEARCH	NOTARY WORK	ARRANGED THIRD PARTY MEETING	HELPFUL FILL OUT FORMS	OTHER
Branch Offices 89 65.9%	15 11.1%	2 1.5%	3 2.2%	4 2.9%	22 16.3%
CLO's and CLO/AD's 56 66.7%	9 10.7%	4 4.8%	5 6.6%	4 4.8%	6 7.1%

Table 3-12

PERCEIVED IMPACT OF SUMMARY ADVICE

	Major Positive Impact	Minor Positive Impact	Not Much Impact
Branch Offices	54 52.4%	23 22.3%	26 25.2%
CLO's and CLO/AD's	35 53.8%	15 23.1%	15 23.1%

The overall impression gained from the interviews was that individuals who want to Branch Offices and CLO's and CLO/AD's for advice were satisfied, pleased with the advice they were given and willing to follow through with the advice. Over 90 percent of those interviewed indicated they would go back for advice in the future if they needed it (95 percent in Branch Offices: 97 percent in CLO's and CLO/AD's).

The summary advice respondents were asked several questions about the then recent reductions in legal aid services. About 90 percent were not aware of any changes. About 75 percent did not know if there was a maximum income level for acceptance for tariff services. Eighty-five percent did not know if there were any problem coverage rules. The initial restraint programming had made no impression on summary advice clients.

1.1.7 Eligible Non-Applicants

The primary individuals affected by legal aid are those people who receive it. In order to understand the impact of legal aid, interviews were conducted with clients who received legal aid services. The results of these interviews were described in the previous sections of this chapter. Despite these in depth interviews there were many impact questions that could not be answered. The major issue that could not be addressed was what would have happened to these clients if they had not received legal aid. Individuals who receive legal aid can be asked to speculate about such a hypothetical situation but their answers are only impressions. In order to more fully understand the impact of legal aid, a comparison is needed between a sample of individuals who received the services and a sample of individuals who did not receive services but were eligible for them.

Scientifically, such a situation would be best studied in a true experimental design such as is used in medical and drug experimentation. This is neither possible nor ethically acceptable in the study of legal aid. Since a control group is not possible the next best alternative is to compare what happened to legal aid clients with what happened to people who never applied for legal aid but would have been eligible if they had. This reference group can be used as an external yardstick by which to measure the impact of legal aid.

Questions can be asked of these eligible non-applicants which reflect upon the impact of legal aid. What happened to eligible non-applicants? Why did they not apply for legal aid? Did they obtain private representation? Did their outcomes differ from those of people who received legal aid?

Using a reference group of eligible non-applicants to measure the impact of legal aid allows estimates of legal aid's impact on the general pool of eligible individuals to be made, that is, it allows estimation of the proportion of eligible applicants actually "reached" by legal aid. To measure the "reach" of legal aid a sample of individuals with a legal problem can be selected and interviewed. During the interviews legal aid eligibility status can be determined. From those who were technically eligible it can be determined who actually applied for and received legal aid. Those persons who did not apply for legal aid can be asked why they did not apply and what impact their lack of legal aid representation had on them. Such interviews may uncover barriers to the accessibility, awareness, and availability of legal aid services.

Selecting a sample of eligible non-applicants is not a simple or inexpensive task. Ideally, a broad range of problem areas should be studied, problem areas in which it would be reasonable to find both many and few eligible individuals. However, it is very expensive to sample in problem areas in which few eligible individuals are likely.

In this evaluation, only an initial assessment of the impact of legal aid on eligible non-applicants was performed.

These studies should be viewed both for the information they provide and as prototypes for further eligible non-applicant studies. Eligible non-applicant studies were performed in two problem areas, both of which were expected to have a high ratio of individuals who were eligible for legal aid representational services or extensive non-representational services such as help preparing for a tribunal appearance. It is not cost effective to sample agencies' files only to find that only one client out of one hundred was financially eligible for legal aid. In such a situation, thousands of files would have to be sampled to get numbers large enough for analysis and all for little purpose. A legal problem area where there are few potential applicants is not an area where legal aid is likely to concentrate its efforts.

With these considerations in mind a decision was made to sample one agency that dealt with civil problems and another that dealt with family matters. The results of these eligible non-applicant surveys are only the first step. The process should be repeated in other areas of law.

There are many agencies to choose from in selecting a civil non-family legal problem. The following agencies and civil non-family problem areas were considered as possible sources for obtaining a sample of eligible non-applicants.

1. Rentalsman appeals: The Rentalsman office handled landlord/tenant disputes. This agency was rejected as a source of eligible non-applicants because it would be difficult to trace persons who lost their eviction appeals. (The Rentalsman Office was closed during provincial cutbacks.)

2. Welfare appeals: Welfare appeals would be a good source of financially eligible non-applicants. The volume of cases, however, is low. Only about fifty appeals are heard provincewide per year. A very high use of legal aid in this area of law would have little general impact because the volume is so low. The transient nature of the applicants would also make it difficult to track persons for interviews.

3. Immigration appeals: The volume of immigration appeals is very low. This civil matter would also obviously be difficult to research because those people who lost their appeals would no longer be in the country.

4. Consumer matters: This problem category was rejected because there is no official agency, tribunal, or court dealing exclusively with consumer problems. A sample of eligible non-applicants with consumer problems would have been very difficult to obtain.

5. Workers' compensation: This civil problem area was rejected because the Workers' Compensation Board does not permit access to their files. This agency would have been an interesting one to sample, though many persons appearing before the Board may be financially ineligible for legal aid.

The civil problem area finally chosen was unemployment insurance appeals (UIC) to the Canada Employment and Immigration Commission (CEIC). This problem area was chosen because there is a single tribunal (Board of Review) which handles all appeals in the province. There is most likely a large number of appeals by persons who would be financially eligible for legal aid. The tribunal handling the appeals was also willing to provide names and addresses of appellants so that a sample could be drawn.

The family legal problem area chosen for analysis was divorce. At the time covered by the sampling, divorce was included under the family tariff program. Since then, divorce coverage has been reduced to urgent matters. The eligible non-applicant analysis, therefore, reflects the impact of a higher level of legal aid service.

1.1.7.1 UIC-Eligible Non-Applicant Study

A random sample of one hundred persons were interviewed about their unemployment insurance appeals. They were appealing decisions of the Canada Employment and Immigration Commission (CEIC) for a variety of reasons. About one-third of the appeals (30.4%) were appeals of decisions denying benefits on the grounds that the claimant was not available for or capable of work. Twenty percent (19.6%) of the appeals involved decisions reducing the period of benefit entitlements on the grounds that the claimant lost employment by reason of his or her own conduct. Another twenty percent (20.6%) of the claimants were appealing decisions reducing benefits for a variety of other reasons such as misrepresentation of earnings, no record of a claim having been filed, the qualifying period was not long enough, or the unemployment was caused by a labour dispute. The UIC appeals included in the sample occurred from November, 1982, to January, 1983.

To determine whether an interviewed person would have been financially eligible for legal aid, household income questions were asked during the interviews. The determination of whether someone is financially eligible for legal aid depends upon a number of factors (i.e. income, expenditures, the number of persons being supported by the household income and the area of residence). Using the LSS general rules, over three-quarters (78.4 percent) of the persons interviewed would have been financially eligible for legal aid. About three-quarters of the people appealing UIC decisions were financially eligible to receive legal representation or extended services from the LSS Branch Offices or CLO's and CLO/AD's at these hearings.

The office decision to provide representation in civil non-family matters involves a legal judgment whether there is a reasonable cause of action and a social judgment whether the proceeding will actually benefit the applicant. Not all those who would be financially eligible would be eligible for representation under civil problem coverage rules even if they applied for legal aid. While not all those who were financially eligible would be covered, determining the proportions of those who were financially eligible who received legal aid, who applied for legal aid, or who even knew about legal aid is a measure of the "reach" of legal aid into civil non-family matters.

All sampled individuals, of course, even if not eligible for representational or extended services, would have been eligible for advice or informational services since they are available to all residents of British Columbia. The "reach" of summary advice in civil non-family matters is also measurable through an eligible non-applicants study.

When interviewees were asked whether they had been represented by a lawyer or any other person almost all replied negatively (98.0 percent). The few persons who were represented at the appeal hearing received assistance from union representatives. Considering that nearly three quarters of the persons interviewed were financially eligible for legal assistance, it can be concluded that the Legal Services Society's civil non-family representational program, which relies on staff counsel and pro bono counsel, and its paralegal-based advocacy representational program have little impact at UIC tribunals.

The results of there not being any legal representation in these UIC appeals was explored by examining the outcomes of the hearings. A large proportion of the unrepresented appellants did not even attend their hearings (37 percent). When asked why they did not attend, many stated that their presence would not have added anything to what had already been stated in the appeal letter (41 percent); others cited transportation problems getting to the tribunal (19 percent); some said that they had to go to work (13 percent); and some said they were ill (9 percent). The remainder cited a variety of other reasons.

The combined impact of not having legal representation and not showing up for the hearing was great. Each appellant was asked about the final outcome of the hearing, whether or not they won (including partial success) or lost. Those individuals who were unrepresented and did not attend the hearings won their appeals in only 11.1 percent of the cases. Stated another way, non-attenders lost 89.9 percent of the time. The unrepresented individuals who attended their hearings won in 45 percent of the cases. It would appear that whether or not an individual appears at his or her own appeal hearing is strongly related to the success of the appeal. Of course, the reason appellants did not attend the hearing might have been a belief that their case was weak. However, this view was expressed by only two of those who did not attend their hearings. The stated reasons for not attending did not appear to involve a judgment by the appellant that his or her case was weak.

The unrepresented appellants were asked if they had received legal assistance or information from any source while preparing for the appeal hearing. Only two persons replied that they had received some legal assistance. Both individuals received some legal education materials; a pamphlet from a Legal Service Society Office and a pamphlet from Canada Pension. Most UIC appellants went to the tribunal unrepresented, if they went at all, and without any legal assistance or advice.

The unrepresented appellants were also asked if they, at any point, considered requesting help with their UIC appeal from a Legal Services Society office or other community legal service. Only nine percent (9 percent) of the appellants said that they had considered requesting such legal assistance. They offered a variety of reasons for not going to a legal aid or community law office. One person indicated he did not go because he thought he was financially ineligible. When the remaining eighty-one percent of the appellants were asked if they remembered why they did not consider requesting legal assistance, most replied that they thought they could handle the appeal without any assistance (63 percent); others stated that they knew about the services, but just never considered them (14 percent); some did not know about any such services (6 percent); and the remaining respondents cited a variety of reasons.

The unrepresented respondents were asked whether they thought their outcome would have been any different had they gone to legal aid for help. None of the appellants who won their cases thought that representation from a LSS Branch Office or CLO would have changed the outcome of their case. Among the appellants who lost their cases, about a fifth (20 percent) thought that having representation or help from legal aid might have made a difference in the outcome; while forty percent were undecided whether it would have made any difference.

The unrepresented appellants were also asked whether they thought the final outcome of their appeal was better, about the same, or worse than they expected. As might be expected, there was a noticeable difference of opinion between those appellants who won their cases and those who lost. Over four-fifths (81 percent) of the appellants who won their cases thought that the final outcome was better than they had expected; the remaining nineteen percent thought that the outcome was about the same as they had expected. Among the unrepresented appellants who lost their cases over half (52 percent) thought that the final outcome was worse than they expected, while the remaining forty-eight percent said the results were what they expected. Overall, UIC appellants generally had expected to lose.

1.1.7.1.1 Summary - UIC Study

The reach of legal aid into the civil problem area of unemployment insurance appeals was minimal. Approximately three-quarters of all UIC appellants would have qualified financially for legal representation according to the LSS guidelines. All could have received information and advice. Despite being financially eligible, only a couple of the appellants had representation and this was by union representatives, not lawyers. It would seem that individuals taking UIC appeals generally did not consider LSS offices or CLO's as a source of help.

Many appellants never went to their hearing. Non-appearance was associated with losing appeals. Nearly all the appellants who went to their hearing did so without prior legal information or advice, though they won their appeals more frequently than those who did not attend. Failure to attend the appeal hearing was not associated with statements that appellants thought their cases were weak.

The lack of reach of legal aid into this civil problem area confirms what was seen by examining utilization rates in civil non-family problem areas in general. Many areas of the province effectively have no civil non-family services. Looking at coverage from a problem specific perspective, it appears that increased civil advice, information and possibly representation is needed. Most individuals appealing UIC decisions have extremely low incomes, if they have any income at all. At face value most would benefit from advice and information. At minimum they would benefit from being told to attend their hearing in order to make their case.

1.1.7.2 Divorce - Eligible Non-Applicant Study

A sample of eighty-one respondents were interviewed about their recent divorce proceedings. All persons sampled filed for divorce between April and June of 1982. This period preceded the reductions in coverage during restraint programming. All divorces were covered by the family tariff. Sixty of the hearings occurred in Vancouver and the other twenty-one occurred in Victoria, two permanent Supreme Court locations in British Columbia. Over half of the cases (45) were filed on the grounds that there had been a three year separation; while twenty-seven of the cases were on grounds of adultery and nine were filed on the grounds of mental and physical cruelty. On coverage grounds all persons in the sample were eligible for legal aid tariff services.

The sample was drawn sequentially from Divorce Registry files in Vancouver and Victoria. The initial numbers in the sample were proportional to the volume of divorces in the two courts. Initially 200 names were drawn in the sample. There was a fairly high failure rate in contacting sampled persons. Many had moved from the address contained in the court documents and could not be located through new telephone numbers. The interview sample is probably biased towards less mobile people. A more extensive study that traces those people who are difficult to find ought to be considered. Such a study would be extremely expensive, but might add to the information found in this study.

A series of income questions were asked during the interviews in order to determine whether any of the sampled people would have been financially eligible for legal aid. The persons in the sample were asked about their net monthly income, the number of persons supported by this household income, expense advantages (e.g., unusually low shelter costs, savings, ownership of a house or other assets), and expense disadvantages (high mortgage or rent payments, large utilities payments, personal debts, loans, special medical expenses, etc.). This information was then compared to the financial eligibility standards used by the LSS. The legal aid eligibility status of the respondents was compared with their representation patterns (Table 3-13).

Table 3-13 reveals many interesting patterns. Nearly one quarter (22 percent) of the people interviewed received legal representation through legal aid. Among those who were deemed to be financially eligible for legal aid almost sixty percent (58 percent) applied for and received legal aid representation. The eligible non-applicants had a high

TABLE 3-13

DIVORCE - FINANCIAL ELIGIBILITY
AND
REPRESENTATION PATTERNS*

ELIGIBILITY STATUS	UNREPRESENTED	LEGAL AID LAWYER	PRIVATE LAWYER	ROW TOTAL
Eligible	3 12.5%	14 58.3%	7 29.2%	24 28.6%
Ineligible**	16 40%	0	24 60%	40 71.4%
Column Total	19 29.7%	14 21.9%	31 48.4%	64 100%

* Seventeen cases were excluded from the table because of incomplete financial data (3), the case was dropped (5), or the case was not complete (9).

** Three of the cases in the ineligible category were borderline in terms of the financial standards employed.

TABLE 3-13a

REDUCED VERSION OF TABLE 3-13

ELIGIBILITY STATUS	UNREPRESENTED	REPRESENTED	ROW TOTAL
Eligible	3 12.5%	21 87.5%	24 28.6%
Ineligible	16 40.0%	24 60.0%	40 71.4%
Column Total	19 29.7%	45 70.3%	64 100%

chi square = 5.43
significance = 0.02
df = 1

representational rate: seven of the ten retained a lawyer privately. Of course, this does not necessarily mean a similarly high percentage of the persons receiving legal aid would have retained private counsel if the legal aid system had not existed.

Most of the eligible non-applicants who retained private counsel indicated that the cost of retaining a lawyer created a financial hardship for them in terms of providing the necessities of life. In direct contrast, only eight percent of the financially ineligible respondents who retained private legal counsel reported any financial hardship.

When the seven eligible non-applicants who retained private counsel were asked how they were able to afford a lawyer, a variety of answers were given: help from family or friends; taking out a loan; etc. Given the high levels of hardship reported by the eligible non-applicants who retained private counsel, it seems reasonable to conclude that with reduced legal aid coverage in the family law area more people are being forced to make the difficult choice between going to court without legal representation and putting themselves in a hardship situation.

The fact that forty percent of the financially ineligible persons who were interviewed went unrepresented indicates a possible equity problem. The financial eligibility standards of the LSS may create a class of people who earn too much to receive legal aid, yet earn too little to retain private counsel. The people who obtain legal representation may fall at the extremes of the economic scale. The eligibility standards may make it very difficult for the middle class to obtain legal representation. The British Columbia legal aid system applies its rules evenhandedly to all applicants, yet the rules themselves may well be considered inequitable when measured against the broader goal of equality of all Canadians before the courts.

Nineteen (29.7 percent) of the people interviewed had no legal representation. These nineteen unrepresented people were asked if they considered, at any point, requesting help from a legal aid office, community law office or legal clinic. Twelve of the nineteen (63 percent) felt that they could handle their divorce by themselves with no need for legal representation. Four persons (21 percent) stated that they did not seek assistance because they were afraid they might be turned away. Of the remaining three respondents, one did not know about the existence of such services; one did not think that divorce was covered; and one went to a legal aid office but only for advice.

The unrepresented persons in the sample were also asked whether they received any legal assistance or information from any source which helped them prepare the divorce action. Eleven of the unrepresented persons interviewed (58 percent) stated that they received legal education materials. They were then asked from whom or what store or office they received these materials. The sources of these legal education materials were as follows: stationery or book store; the Law Shoppe, a storefront law firm; the court house; paralegals; and the Lawyer Referral Service.

Persons with legal representation were asked how they first found out about a source of representation. Table 3-14 shows these results. As can be seen from this table, the vast majority of represented respondents found their lawyer through a friend or relative (30 out of 45).

The individuals who retained private lawyers, both those financially eligible and ineligible for legal aid, were asked if they ever considered requesting help from a legal aid office (LSS Branch Office), community law office, or a law clinic. Only six respondents (19 percent) indicated that they had considered legal aid or a law clinic and all of them indicated that they did not seek assistance because they suspected that they did not qualify financially. Checks of their statements about income, assets and expenses showed that five of the six were correct in their assessment of their eligibility: they were probably financially ineligible.

1.1.7.2.1 Summary Divorce Study

Using coverage standards in place before the recent cutbacks, legal aid had a large impact in the divorce area. Almost 60 percent of the eligible individuals had actually applied for and received legal aid tariff coverage. About 40 percent were unaware they were eligible for services. Most eligible non-applicants managed to retain private counsel, but reported hardship in doing so. Surprisingly, the private bar did not refer these individuals to LSS offices.

Among those people whose income fell above the limit set out by the Legal Services Society, a high number of individuals were unrepresented. While the entire movement in legal aid in British Columbia is currently towards less coverage, the decline in representation rates for those whose income fell above legal aid's limit creates a strong argument for raising the income cut off for financial eligibility in the family law area. There appears to be a

TABLE 3-14

SOURCE OF AWARENESS OF REPRESENTATION
AMONG REPRESENTED DIVORCE RESPONDENTS

SOURCE OF AWARENESS	TYPE OF REPRESENTATION	
	LEGAL AID	PRIVATE LAWYER
Friend/Relative	9	21
Human Resources	2	3
Family Court	1	1
Previously Client	2	2
Lawyer Referral	0	1
Lawyer	0	3
Total	14	31

problem of equity between those financially eligible for legal aid and those whose financial resources fall just above the eligibility cut point. The latter group may have no realistic access to legal representation at all.

2.0 QUALITY STUDIES

The evaluation included two special studies related to quality issues of interest to the Legal Services Society and the federal Department of Justice. These issues were identified during the design stage of the evaluation . The first and perhaps the most important research study was an in depth look at the use of paralegals in the LSS Offices and Community Law Offices. CLO's use paralegals (called legal information counsellors or LIC's) to provide direct client services. With such a widespread use of LIC's or paralegals by the LSS, it is important to understand their legal standing, their role within the legal aid delivery scheme and potential conflicts and misunderstandings associated with their use. An analysis of LIC's/paralegals forms a major part of this chapter.

The chapter also includes a report of a comparison of the handling of criminal legal aid cases by staff counsel and judicare counsel. While the comparison of staff and judicare counsel was not a controlled experimental study, it did show interesting patterns similar to those found in an earlier experimental public defender office run by The Legal Services Society. The sub-study is described after the paralegal analysis.

2.1 PARALEGAL ANALYSIS

The delivery of legal services to poor people poses a critical issue for the legal profession. On the one hand, the legal profession has an ethical responsibility to ensure that all clients receive competent, quality legal services. On the other hand, because legal services for the poor are provided by some combination of charity from individual lawyers and payments from the public purse, the profession has an obligation to its own members and to the public at large to provide legal services to the poor in the most cost effective manner possible. In addition, the legal problems of the poor often involve specialized areas of law which relate only tangentially to the legal problems seen by most lawyers in the ordinary course of private practice.

The general solution to the problem of ensuring competent legal services is similar in most common law jurisdictions: the practice of law is regulated by the state, normally through a Law Society or Bar Association, and limited to those persons professionally qualified as lawyers. The Barristers and Solicitors Act of British Columbia limits the practice of law to members of the Law Society of British Columbia.

The practice of law, as regulated, generally encompasses four areas of activity when undertaken regularly and for a fee: the representation of clients before judicial courts or administrative tribunals; advising clients on their legal problems; the drafting of legal instruments; the settlement or determination of clients' legal affairs.

The pressure for cost effective delivery of legal services to the poor has been met, throughout North American jurisdictions, by the development of a new legal calling based on the recognition that many components of many legal tasks do not actually require the skills and judgments of a fully trained lawyer. As expressed by Thomas Ehrlich, former Dean of Stanford University Law School and then president of the American Legal Services Corporation, in 1974:

> A substantial share of needed legal services for the poor can be provided by individuals with some understanding, with some patience, with some knowledge of government bureaucracy, all combined with some basic training in legal subjects of particular concern to poor people -- housing, welfare, family law in particular. That is a considerable cluster of abilities, but their attainment does not require three years of law school.

Paralegals, para-professionals who undertake substantial legal tasks under the direct supervision of a lawyer, constitute a growing and increasingly cost effective sector of the legal services community. In the United States, the American Bar Association is actively involved in both the expansion of the paralegal profession and the integration of paralegals into the practice of law. There are some 350 paralegal training programs. The U.S. Bureau of Labor Standards estimates that there will be more than 65,000 practising paralegals in that country by 1990. (See generally, Ulrich, "Legal Assistants Can Increase Your Profits", 69 American Bar Association Journal 1634 (1983); Ulrich and Muckleatone (eds.), I Working with Legal Assistants (1980); Shayne, The Paralegal Profession (1977).)

The American Bar Association Standing Committee on Legal Assistants has defined five general services provided by paralegals in the general practice environment: (1) conducting legal research; (2) designing, developing or planning modifications of new procedures, techniques, services, processes or applications; (3) preparing or interpreting legal documents or writing detailed procedures for engaging in certain fields of law; (4) selecting, compiling, and using technical information from such references as digests, encyclopedias, or practice manuals; (5) analyzing and following procedural problems that involve independent decisions.

In Canada the pattern is similar to that found in the United States. In daily practice, paralegals might prepare the detailed accounts, reports and pleadings required in probate proceedings; conduct title searches and prepare and review deeds and mortgages in real estate transactions; or prepare preliminary drafts of corporate documents. In litigation, paralegals might prepare interrogatories and draft motions for the lawyer's approval; notify clients and witnesses of trial dates; schedule interviews, prepare and issue subpoenas; organize materials and a draft record on appeal for the lawyer's approval.

Public sector paralegals, especially those providing legal services to the poor, generally have far more direct client contact than those in private practice. Paralegals often handle client intake and problem analysis. They handle a wide variety of cases where the problem can be dealt with by means of a telephone call or a letter, or by referral to an appropriate social service agency. In many cases, paralegals obtain immediate advice from a supervising lawyer, then handle the matter independently. In specialized areas of law such as welfare or public housing, the paralegal may handle all aspects of a case, including representation before administrative boards or tribunals. [Baily, Kleeman and Ring, "Paralegal Functions and Legal Constraints," 9 Clearinghouse Review 851, 853 (1976); Shayne, The Paralegal Profession at 2 - 6 (1977).]

In general, paralegals always work under the supervision of a specific lawyer who is ultimately professionally responsible for the quality of legal services performed. In most jurisdictions, the right of judicial audience has been withheld from paralegals -- a matter transfers from paralegal to lawyer when representation in a court of law becomes necessary.

The historical development of legal services to the poor in British Columbia had important ties to developments in the United States. The Community Law Offices funded by the Justice Development Commission and then the Legal Services Commission in the early and mid-1970's drew explicitly from the community law office model developed by the American Office for Economic Opportunity and its successor, the Legal Services Corporation. That model assumed that a large proportion of all poverty law problems could be handled by properly trained and supervised paralegals. Paralegals formed the core staff of the community law offices in British Columbia. The paralegal staff in community law offices are called legal information counsellors (LIC's).

When the Legal Services Commission and the Legal Aid Society were merged to form the Legal Services Society by means of the Legal Services Society Act 1979 (R.S.B.C. 1979, Chap. 227), the Provincial Legislature adopted one of the most expansive views of the role of paralegals to be found in any common law jurisdiction. Section 9 of the Act provides:

> Notwithstanding the Barristers and Solicitors Act, the society or a funded agency may employ, with or without remuneration, an individual who is not a lawyer or an articled student to provide services that would ordinarily be provided by a lawyer so long as the individual is supervised by a lawyer, but the individual may not appear as counsel in a court except with leave of the court.

Operationally, the British Columbia position has been interpreted to mean that, subject to supervision and to the agreement of a specific court, a LIC/paralegal employed by the Legal Services Society or one of its funded agencies may perform any task or service that could be performed by a lawyer. LIC's/paralegals in different local jurisdictions around the province provide legal advice, prepare and file legal instruments, represent clients before a range of administrative tribunals and quasi-judicial bodies, and represent clients as duty counsel before Provincial Courts. Under the Legal Services Society Act, a LIC/paralegal could, with leave of the court, appear as counsel before the County Court, the Supreme Court, or the Court of Appeal.

The breadth of the British Columbia legislation clearly places a premium on the effective use of paralegal personnel to provide cost effective legal services to the people of British Columbia. The remainder of this analysis will provide a profile of legal information counsellors and paralegals who work for the Legal Services Society and its funded agencies; a profile of the work they do; and a profile of the beliefs of LIC's/paralegals and lawyers, both inside and outside the Legal Services Society, about what LIC's/paralegals do and what LIC's/paralegals ought to do.

2.1.1 Paralegal Profile

2.1.1.1 LSS Service Office Staffing

During the summer of 1983, LIC's/paralegal personnel (technically "paralegals" in Branch Offices, but typically called "Legal Information Counsellors" or "LIC's" in CLO/AD's, CLO's and NCLO's) comprised twenty-six percent of all staff employed in the four principal types of service delivery offices maintained by the Legal Services Society. Lawyers comprised twenty-eight percent of the Legal Services Society service office staff. Secretarial and other support staff comprised forty-six percent of the LSS service office staff. Clearly, the emphasis on the use of paralegals to deliver legal services to the poor remained a major element of legal aid policy in British Columbia four years after the merger of the Legal Aid Society and the Legal Services Commission.

The different emphasis on the use of LIC's/paralegals in the four types of offices is striking: LIC's/paralegals comprised sixty-six percent of all staff in CLO's, but only five percent of staff in the Branch Offices. The ratio of paralegals to lawyers also varied substantially by office type. For Branch Offices, there was only 0.1 paralegal for each lawyer. For CLO/AD's there were 1.67 LIC's for each lawyer. In NCLO's, the ratio was 3.2 LIC's for each lawyer. The CLO's had 10.5 LIC's on staff, but no lawyers. (See Table 3-15)

The regional variation in the proportion of LIC's/paralegals used by LSS service offices is also substantial, but less striking, and is generally dominated by the relative mix of office type within particular regions. Three regions which contained only LSS Branch Offices had no paralegals on staff at all. At the other extreme, LIC's/paralegals comprised 42.9 percent of the staff in the Cariboo region and 36.8 percent of the staff in the Okanagan region, where Branch Offices made up only half of the LSS service offices. In the Cariboo, there were 3.0 LIC's/paralegals for each lawyer on staff. In the Okanagan region there were 1.75 LIC's/paralegals for each staff lawyer. In the Kamloops, the Greater Vancouver, the Central Interior and the North West Coast Regions, the LIC/paralegal to lawyer ratio was approximately one to one. On Vancouver Island, there was only 0.33 LIC/paralegal per staff lawyer. (See Table 3-16)

The Legal Services Society moved somewhat away from the use of LIC's/paralegals in the staff cuts it mandated through July, 1983, in an effort to cope with budget problems. The LSS had mandated overall staff cuts of 14.7 percent across all the service offices it funded. The lawyer complement was cut by 14.5 percent. The support staff complement was cut by only 9.7 percent. The LIC/paralegal complement was cut by 23.8 percent. Almost a fourth of all staff LIC/paralegal positions were eliminated. Some of the paralegals/LIC's who were laid off moved into support staff positions, so the skill reduction has not been as dramatic as the paralegal/LIC position reduction.

2.1.1.2 Paralegal Background and Training

Unlike lawyers, who must meet a prescribed pattern of university and professional training in order to enter the practice of law in British Columbia, LIC's/paralegals need present no particular background and need meet no particular qualification standard in order to give advice and do other legal tasks. The LSS does not make it a condition of funding contract agencies such as CLO's and NCLO's that LIC's/paralegals receive any training. Background and training information was collected for 15 LIC's/paralegals during office site visits and interviews during the spring and early summer of 1983 and from the Training Department of the LSS.

Although some early visions of legal aid delivery had contemplated, and perhaps preferred, substantial professional staff turnover at the LSS service delivery offices, it appears that many lawyers and paralegals have come to view legal aid work as a permanent career. Staff lawyers had worked for the Legal Services Society (or its predecessors) or for LSS funded agencies for an average of 3.8 years. The range was a few months to 9 years. Paralegals had even longer careers with the Legal Services Society. The average was 5.7 years. The range was a few months to 13 years.

Staff LIC's/paralegals brought a range of backgrounds to the job. Of the 15 LIC's/paralegals interviewed, forty percent or 6 had no post-secondary level education. Twenty-seven percent (3) had two years of post-secondary education. One third or 5 of the paralegals interviewed had

TABLE 3-15

SERVICE OFFICE STAFF BY OFFICE TYPE, MAY - JUNE, 1983

OFFICE TYPE	LAWYERS	LIC's/ PARALEGALS	SUPPORT STAFF	LIC's/PARALEGALS AS PERCENTAGE OF PERSONNEL
Branch	26	3	29	5.2%
CLO/AD	6	10	15	32.3%
CLO	0	10.5	5.5	65.6%
NCLO	2.5	8	7	45.7%
TOTAL	34.5	31.5	56.5	25.7%

TABLE 3-16

SERVICE OFFICE STAFF BY REGION, MAY-JUNE, 1983

REGION	LAWYERS	LIC's/ PARALEGALS	SUPPORT STAFF	LIC's/PARALEGALS AS PERCENTAGE OF PERSONNEL
East Kootenay	1	0	1	0
Central Kootenay	2	0	1	0
Okanagan	2	3.5	4	36.8
Kamloops Interior	2	2	5	22.2
Greater Vancouver	12	13	22.5	27.4
Vancouver Island	6	2	8	12.5
Central Interior	5	6	7	33.3
Northern	2	0	2	0
North West Coast	1.5	2	3	30.8
Cariboo	1	3	3	42.9
TOTAL	34.5	31.5	56.5	25.7

taken a university baccalaureate degree prior to becoming paralegals. Of the university graduates, two had majored in criminology, two had majored in sociology, one had specialized in education. In terms of prior work experience, one third (5) had been social workers prior to becoming paralegals, one quarter (4) had been secretaries or legal secretaries, and three had been teachers. Two of fifteen reported no prior work experience, entering a paralegal career directly from a college or university.

2.1.1.2.1 Training

Given the lack of any specific background in law among the LSS LIC's/paralegals at the time they entered service, it is clear that the quantity and quality of training available to paralegals is very important.

The Legal Services Society provides an introductory paralegal training course which new LIC's/paralegals, both those directly employed by the LSS and those employed by LSS funded agencies such as CLO's and NCLO's, may attend. During the 1983 service office interviews, LIC's/paralegals were asked whether they had attended the introductory paralegal training course prior to or soon after starting work. Sixty percent (9) said that they had attended the course. Forty percent (6) said that they had not.

Of the six who had not attended the course, five were in funded agencies rather than in Branch Offices and four had started work as paralegals prior to 1979, when the LSS had been created, and had seen no particular advantage in attending an introductory training course.

Of the nine who did attend the introductory paralegal training course, 44 percent or four began work prior to 1979, but still saw some advantage in an introductory level training course.

2.1.1.2.1.1 On-the-Job Training

The LIC's/paralegals were asked whether they had received any formal on-the-job training after starting work as paralegals. Eighty-seven percent told us that they had received such training in the course of their employment.

Of those who were trained on the job, over three-fourths (77 percent) said that part of their training took the form of close supervision by their supervising lawyer. Over half (54 percent) also said that training included detailed discussion of particular points of law as matters arose during day to day work. More formal, systematic training occurred less frequently, but it did take place. Assigned reading programs made up part of the training received by six of the thirteen LIC's/paralegals. Supervising lawyers gave lectures on particular points of law or otherwise tutored five of the thirteen LIC's/paralegals who received training on the job. All but one of the LIC's/paralegals who said they had received on the job training indicated that it had involved several different methods.

Several LIC's/paralegals indicated special, or unique forms of on the job training. In one large office staff lawyers gave regular Friday afternoon mini-courses for all employees. One office in proximity to the University of British Columbia had allowed a paralegal to audit courses at the law school. One office had allowed a LIC/paralegal to take the paralegal training course offered at a community college in Seattle, Washington, then to undertake an attachment at the Seattle Public Defense office. LIC's/paraglegals in two offices indicated that their on-the-job training had primarily been conducted by a senior staff LIC/paralegal rather than by the supervising lawyer.

The subject matter covered by on-the-job training was diverse. Criminal law (both substantive and procedural) and family law were the most frequently mentioned subjects: 46 percent of the respondent LIC's/paralegals mentioned them. Administrative law was mentioned by 31 percent. Civil procedure, contract and debt, legal research, and office procedures were each mentioned as topics of on-the-job training by 23 percent. Other topics mentioned by at least one or two LIC's/paralegals included welfare law, wills and estates, consumer law, immigration law, and unemployment compensation insurance law.

2.1.1.2.1.2 LIC/Paralegal Workshops

Since its formation in 1979, the Legal Services Society has conducted a series of training workshops for staff LIC's and paralegals. These courses are open to individuals from other organizations such as Native Bands, Native Friendship Centres and Courtworker Associations. In addition secretaries/legal assistants employed in both LSS offices and contract offices sometimes attend. The LIC's/paralegals interviewed reported attending an average of four LSS workshops.

Since its formation in 1979, the Legal Services Society has conducted a series of training workshops for staff, LIC's, paralegals, staff at Native Friendship Centres and other interested persons. The training program of the LSS serves a diverse population with varied training needs. This evaluation looked at paralegal/LIC training for LIC's/paralegals employed in LSS Branch Offices, CLO's and CLO/AD's. It is not an evaluation of the adequacy of the training program in general, but an analysis of the perceived adequacy of the training by LIC's/paralegals in Branch Offices, CLO's and CLO/AD's.

To set the context for the views of LIC's/paralegals some background information about the training program is necessary. The Training Department has set as its objectives training LIC's/paralegals to:

- be effective advocates for poor people
- help clients with law-related problems
- understand and be able to explain the legal system and the system of government, particularly with respect to social assistance
- use lawyers effectively.

These are obviously interrelated objectives, but basically involve training LIC's/paralegals in how to use the socio/legal system for the benefit of clients with legal problems. The first objective, however, does not appear to be limited to legal problems.

The LSS put on 12 workshops and one introductory paralegal workshop between January, 1982, and March, 1984. In 1982, the LSS put on eight workshops and one introductory course. In 1983, the total dropped to two workshops. Two workshops were held in the first quarter of 1984. Several more are planned. During 1982, the Training Department in the LSS trained staff on the new MIS and consequently put on fewer workshops. The volume of training appears to be increasing after the decrease in 1982.

Sixty-nine people in total attended at least one course or workshop during the period between January, 1982 and March, 1984. For the LIC's/paralegals, the number of courses attended varied greatly. Of the currently employed LIC's/paralegals, four attended no LSS course between January, 1982, and March, 1984; six attended only one LSS sponsored course between January, 1982 and March, 1984; while one person, at the other extreme, attended eleven courses. LIC's and paralegals may and do attend workshops sponsored by other organizations.

Of the 69 people who attended at least one course, 27 (33%) were not LIC/paralegals in Branch Offices, CLO's or CLO/AD's. A substantial proportion of attendees might be assumed to have interests and needs different from LSS staff or contract office staff. The mixed background of persons attending workshops makes it potentially difficult to set the level and content of courses.

During 1982 the LSS held workshops on:

- Workers' Compensation Board practice and related case law
- administrative law with special emphasis on Unemployment Insurance coverage and appeals
- law and the disabled
- prison law including topics relating to parole, transfer, institutional discipline and problems of prisoners' families
- contract and debt with emphasis on credit and debt law, debt counselling, bankruptcy and foreclosure
- native law including coverage of the Indian Act, rules of status membership, band powers and reserve management, child welfare and family law, and fishing and hunting regulations
- advocacy skills as they relate to family law, provincial court procedures, welfare law, case preparation and legal research
- family law including written agreements, consent orders, custody, maintenance enforcement problems, common law relationships and the Family and Child Services Act
- introductory course covering an introduction to legal institutions, legal research, welfare advocacy, unemployment insurance, Residential Tenancy Act, public legal education, organizing skills, family law and remedies for battered women

In 1983 workshops were held on:

- Criminal law including definitions of specific offences, trial procedure and rules of evidence
- Civil procedure relating to drafting of writs and statements of defence, Supreme and County Court procedure, chambers practice, statutory consideration with special emphasis on the

Residential Tenancy Act, the Young Offenders Act, changes in human rights legislation and employment standards

The 1984 workshops (up to March 31, 1984) included:

- a native law workshop which varied from the 1982 workshop. The 1984 workshop covered status membership, the Family Relations Act, hunting and fishing regulations as in 1982. It also covered the Young Offenders Act, tribal courts, and income taxation

- an advocacy skills workshop

Several workshops and courses included tests at the end; all included participant evaluations which were returned to the training department. Test scores were not sent to the CLO boards for evaluation of their staff and most workshops and courses did not include any skill testing. The lack of skill testing seems to be in line with the LSS position that training is not mandatory and is not a condition of funding in contract offices.

The evaluations conducted at the end of each workshop have never been quantified. To assess what LIC's/paralegals thought of the courses, they were asked which workshops they had attended, and were further asked to assess those workshops on a scale of 1 to 10, where 10 was "extremely valuable" and 1 was "worthless". Ten workshops were mentioned and rated by more than one LIC/paralegal. The mentioned workshops may contain some put on by groups other than the LSS. The most frequently mentioned workshop topic was family law, which was mentioned by more than half (54 percent) of the paralegals interviewed. The most highly rated workshop was one that dealt with contract law and debt. It received an average rating of 8.0 on the scale of 10. (See Table 3-17)

Many specific workshop topics were mentioned by a single LIC/paralegal only. These included: advocacy skills; court work; legal research; human rights; youth and the law; community development; public legal education; wills and estates; law and the disabled; and "how to put on a workshop". It is not clear from the LSS Head Office records that all of these workshops have actually been mounted as workshops since 1979. Using available information on workshops since March, 1981, the advocacy skills, court work and law and the disabled are LSS workshops. The others may not be LSS workshops.

TABLE 3-17

FREQUENCY AND RATING OF PARALEGAL TRAINING TOPICS

TOPIC	FREQUENCY # ATTENDING	TOPIC	AVERAGE RATING*
Family Law	8	Contract/Debt	8.0
Criminal Law	7	Workers' Compensation	7.3
Administrative Law	4	Administrative Law	6.5
Automobile Insurance	4	Criminal Law	5.3
Workers' Compensation	3	Labour Law	5.3
Labour Law	3	Native Law	5.0
Contract/Debt	3	Automobile Insurance	4.5
Torts/Civil Procedure	2	Landlord/Tenant**	4.0
Landlord/Tenant**	2	Family Law	3.0
Native Law	2	Torts/Civil Procedure	3.0

*Scale: (1-worthless; 10-extremely valuable)

**Not a LSS workshop during 1979-80 to 1983-84.

Conversely, in the period since 1982, LIC's/paralegals had forgotten that they attended an average of 1.5 workshops which LSS records indicated that they attended.

LIC's/paralegals volunteered a number of comments about the quality of specific training programs and workshops. Only a few were singled out for praise. The LSS Introductory Training Course for LIC's/paralegals drew praise from some of the paralegals who attended it: "extremely valuable", said one paralegal; "the trainer was good," said another. The workshop on advocacy skills was characterized as "good for beginners." The LIC/paralegal who had attended a two week course on contract law and criminal law at the University of British Columbia law school said that the course was "really good." By contrast, the criminal law workshops given by the LSS were singled out for criticism: "too simplistic" said one paralegal; "trivial" said another. Although attended by many of the LIC's/paralegals, the LSS family law workshop received particularly low ratings. It tied for lowest overall rating on the 10 point quality scale at 3.0. Again, one LIC/paralegal singled it out for critical characterization as "too simplistic".

2.1.1.2.1.3 Overall Perceptions of Training Adequacy

The staff LIC's/paralegals were asked whether they thought that their training, overall, was adequate for the job. Eighty percent said that their training was not adequate for the job. One LIC/paralegal characterized the current situation as personally and professionally dangerous, observing that "We are getting increasingly sophisticated clients who will complain effectively if a paralegal makes a mistake."

Among those who said that their training had been adequate were university graduates with degrees in criminology and education, and a graduate of a community college paralegal training program.

The staff LIC's/paralegals were asked how they thought their training could be improved. A majority argued that the LSS should develop formal standardized training courses. One LIC/paralegal called for "structured training courses that are preplanned, standardized, and systematic with very specific goals in mind." Another suggested "more material, exams, better delivery and innovative teaching methods."

Several LIC's/paralegals suggested specific training innovations. One pointed out that it is difficult to find release time and travel funds in order to attend training workshops. He suggested that the LSS ought to have specialists in different areas of law travel to individual offices and give workshops. Another LIC/paralegal, addressing the same problem, suggested "strict correspondence courses." One LIC/paralegal spoke of the problems she found with the LSS introductory course and said that new LIC's/paralegals "need a minimum one month introductory course that covers most areas of practice." Another LIC/paralegal said that the LSS and the Law Society should work with the colleges in the province to develop a "California-style" two year Associate of Arts degree for paralegals, and that completion of that degree should then be made a prerequisite for entry into practice as a LIC/paralegal.

2.1.1.2.1.4 Priorities for Further Training

The staff LIC's/paralegals were asked to outline their personal priorities for additional training, both in specific areas of law and in types of skills necessary to do the job. The legal topics and skills in which they want training suggests a work pattern tied rather more heavily to litigation than many lawyers might expect. The highest priorities for subject matter training were given, in descending order, to criminal procedure, civil procedure, administrative law, and family law. The highest priorities for skill training, in descending order, were given to advocacy skills, legal research skills, negotiation skills, and interviewing skills.

The training priorities named by LIC's/paralegals during the mid-1983 interviews were reasonably consistent with those named in a earlier survey conducted by the training committee of the LSS Staff Paralegal/Legal Information Counsellor Association. In that survey, highest priority for training was given to criminal law and to civil procedure. There was an 82 percent overlap among the top subject matter priorities in the two surveys. Highest priorities for skill training went to handling court documents, to legal research, to tribunal advocacy, and to negotiation skills. Again, there was a high degree of overlap between the skill training priorities found in the two surveys.

The staff LIC's/paralegals were asked whether their training priorities had changed over the prior year because of changes in the types of problems clients were bringing to them. Sixty percent said that their priorities for further training had changed for this reason.

Several said that they were now taking more tribunal appeals on behalf of clients. Several said that they were seeing far more civil litigation problems, especially contract and debt litigation. In all cases, this was attributed to the difficult economic situation in the province.

Staff LIC's/paralegals were also asked whether their priorities for additional training had changed because of the Legal Service Society budget cuts. Two thirds of the paralegals said that their priorities for further training had changed because of the LSS restraint program.

Most of the LIC's/paralegals said they were giving much more extensive advice on matters of criminal law and family law than in the past. In all cases, this was attributed to changes in legal aid coverage under the tariff. Because coverage had been reduced, LIC's/paralegals were now providing far more advice and short service to rejected applicants.

Several LIC's/paralegals said they were going to court as counsel because legal aid was no longer available to clients. One paralegal said that she now spends most of her time in court as duty counsel, or handling show cause hearings, or going to family court as counsel.

Changes in the legal aid tariff, and other restraint measures had, in the eyes of the staff paralegals interviewed in mid-1983, substantially shifted their perceived needs for training toward the substantive legal knowledge and skills of the litigation lawyer.

2.1.1.2.1.5 Some Conclusions About Paralegal Training

It seems clear that paralegal training, as currently conducted, is perceived as inadequate and haphazard by most of the paralegals who were interviewed. The amount of Legal Service Society business conducted by LIC's/paralegals makes it imperative that the LSS pay more attention to both entry level qualifications and continuing legal education for both the paralegals employed directly by it and for the Legal Information Counsellors and paralegals employed by funded agencies.

To be sure, the Legal Service Society was only formed in 1979, and first priority, organizationally, had to be given to the development of integrated operating systems for the diverse agencies inherited from the predecessor organizations. During the summer of 1983, as well, there were signs of increasing attention to training matters, particularly for LIC's/paralegals. A comprehensive criminal law course, designed in consultation with the paralegal association, was presented during the summer. Additional effort must be made, however, and soon. We would recommend consideration of the following:

- development of a systematic, comprehensive entry level training course which all new paralegals must complete (or waive through completion of an acceptable college paralegal diploma course) prior to commencing work. This should be required of paralegals hired by funded agencies as well as by those working directly for the LSS.
- development of a systematic paralegal training syllabus including courses and required reading lists that will be taught on an established cyclic basis.
- use of innovative teaching techniques to cut costs and increase participation rates. Special attention should be given to the use of programmed learning modules and to the use of the province's special facilities for remote, two-way teaching via educational satellite television links. Consideration should also be given to having instructional teams travel out to offices or regions, rather than gathering all paralegals in a single location.
- training activities should be undertaken in consultation with a number of major educational resources, including the Schools of Law at the University of British Columbia and the University of Victoria, and the continuing legal education staff of the Law Society of British Columbia.

These recommendations require a review of policies on LIC/paralegal training. Currently, training is not required. The LSS training department is directed towards training other groups besides LIC's/paralegals. To improve training for LIC's/paralegals, the LSS may be required to consider directing the Training Department to address only the needs of LIC's/paralegals, not other groups.

2.1.2 The Work of Paralegals in the Legal Services Society

2.1.2.1 Patterns of Supervision

The Legal Services Society Act of 1979 permits LIC's/paralegals employed by the Legal Services Society or one of its funded agencies, when supervised by a lawyer, to provide services and do work otherwise limited to lawyers by the

Barristers and Solicitors Act. The Legal Services Society Act and relevant case law are silent on the character and scope of supervision required. For operational purposes, supervision as required by the Act is defined in Section 2.5 of the Legal Services Society Policies and Procedures Handbook (the pertinent parts of which appear as schedule "B" in annual contracts between the LSS and CLO/AD offices, CLO's, and NCLO's).

Supervision of a LIC/paralegal may be conducted in either of two ways. In smaller service offices, a staff or consulting lawyer directly and personally supervises the work of the LIC/paralegal. In larger service offices, the local Board of Directors may designate a specific non-lawyer (typically a senior LIC/paralegal) to undertake direct personal supervision of a LIC/paralegal's work in specified areas of law. In such circumstances, the staff or consulting lawyer must conduct a periodic review of a sample of files in order to monitor the quality of work performed by the LIC/paralegal.

Direct supervision is defined at three levels of intensity: minimum review; partial review; and full review. The levels of review are nested. Partial review includes all of the elements of minimum review. Full review contains all of the elements of both minimum and partial review.

Minimum Review involves three elements:

(1) review of all superior court documents before filing;

(2) review of all files before closure and all advice given; and
(3) answering any questions posed in relation to supervised files.

Partial Review involves all of the elements included under minimum review and adds four additional review elements:

(4) review of all inferior court documents before filing;
(5) review of all administrative tribunal documents within a reasonable time after filing;
(6) review of all legal memoranda, opinions, letters and other documents within a reasonable time after release; and
(7) review of proposed advocacy work in detail before appearance.

Full Review includes the seven review elements involved in minimum and partial review, and adds two additional review elements:

(8) review of each file as it is opened, and close monitoring of the progress of the file to completion; and
(9) direct supervision of any advocacy work.

LIC's/paralegals and staff lawyers were interviewed in order to build up a profile of supervision patterns across the various LSS service offices.

2.1.2.1.1 Who Supervises?

Three patterns of supervision were found in the LSS service offices. The predominant pattern, reported in seventy-eight percent of the offices, involves direct supervision of the LIC/paralegal by a staff or consulting lawyer. Two offices reported that they used the more elaborate system of periodic review provided for under the LSS Policies and Procedures section 2.5.3.d, in which direct supervision is undertaken by a local Board-of-Directors-designated non-lawyer, subject to periodic review of a sample of files by a lawyer. Practice varied from procedure, however, in that the periodic review pattern of supervision appeared to cover all areas of work rather than some limited set of designated areas of law.

The third pattern of supervision is particularly troubling: LIC's/paralegals in two offices reported that they received no legal supervision whatsoever. In one case, strained relations between the local Board of Directors and the staff lawyer had resulted in the Board forbidding the lawyer to review or attempt to supervise the work of the LIC/paralegal. At the time of the interview, this situation had been in effect for more than six months, and the Board had not seen fit to make alternative arrangements for a consulting lawyer to supervise the LIC/paralegal. In the other case, the LIC/paralegal said that she never saw the consulting lawyer and that he never undertook systematic or formal review of files, but that she could telephone him and ask questions when she thought she had a problem.

2.1.2.1.2 The Level of Supervision

The LSS procedures and policies manual makes provision for three levels or intensities of supervision of paralegals. In the normal situation, the level of supervision should reduce from full to partial to minimum over time as the LIC/paralegal gains experience and the supervising lawyer comes to understand the LIC/paralegal's working patterns.

Given the extensive experience of the LIC's/paralegals working for the LSS and its funded agencies during the summer of 1983 (average years of service, 5.7) it is not surprising to find that the majority of offices (56 percent) reported that their LIC's/paralegals operated under minimum supervision. Five offices (28 percent) reported that their LIC's/paralegals operated under full supervision. One office said that its LIC's/paralegals were subject to partial supervision (6 percent). Two LIC's/ paralegals reported that they received no supervision.

Where information about supervision patterns was obtained from both LIC's/paralegals and lawyers in the same office, it was possible to consider the consistency of their understanding about what constituted a particular level of supervision. In five of seven such offices (71 percent), the LIC/paralegal and the lawyer agreed about the level of supervision received by the paralegals.

In the two offices where LIC/paralegal and lawyer responses were inconsistent, the LIC's/paralegals indicated that they received minimum supervision, while the lawyers indicated that their LIC/paralegals received full supervision. In both offices, however, the LIC's/paralegals and lawyers were in agreement about the frequency and depth of review. In one office, review was conducted basically only at the LIC/paralegal's request. In the other office, all of the LIC/paralegal's files were reviewed on a weekly basis.

2.1.2.1.3 The Frequency of Review

Supervision can vary in the frequency with which it is exercised as well as the level of intensity with which review is conducted. Among the offices indicating that LIC's/paralegals were on minimum supervision status, 50 percent indicated that reviews were conducted weekly; and 50 percent indicated that reviews were conducted "only on the paralegal's request." Only one office said that its LIC/ paralegal was on partial review status. That office reviewed every file when it was opened, and reviewed the file again before it was closed. No systematic review at fixed time intervals was conducted in that office. Among the offices indicating that their paralegals were on full supervision status, 40 percent said that files were reveiwed daily; 20 percent said that files were reviewed several times a week ("three times a week"; "every couple of days"); and 40 percent said that files were reviewed on a weekly basis.

Lawyers and LIC's/paralegals were generally quite consistent in describing the frequency of supervisory review of paralegal work. In one office that indicated full supervision, the LIC/paralegal said work was reviewed on a weekly basis, while the lawyer said that work was reviewed twice a week and again when each file was closed. In one office that indicated minimum supervision, the LIC/paralegal said reviews occurred on request and when the file was closed; the lawyer said that files were reviewed monthly.

Lawyers generally considered the work of the LIC's/paralegals whom they supervised to be quite good. One lawyer said that he found something to query in about 20 percent of the files he reviewed, but that few of those queries actually involved some problem or error in the work of the LIC/paralegal.

LIC's/paralegals and lawyers were in frequent contact in all offices, so that most supervising lawyers could be expected to have a working feel for the LIC/paralegals' files. Daily contact was the rule in 38.9 percent of the offices. An additional 38.9 percent had contact at least weekly. One office indicated contact between the LIC/paralegal and the supervising lawyer, outside the context of supervisory review, occurred about once a month. Two LIC's/paralegals indicated that their contacts with their supervisory lawyers were rare and self-initiated.

2.1.2.1.4 Perceived Appropriateness of Supervision

Both lawyers and LIC's/paralegals were asked whether they thought current practices resulted in too much supervision, or too little supervision, or about the right amount of supervision. As might be expected, most lawyers and most LIC's/paralegals thought that current practices were appropriate.

Ninety-three percent of the LIC's/paralegals and seventy percent of the lawyers thought that current levels of supervision were about right. One LIC/paralegal and two lawyers thought that current practices resulted in too little supervision. One lawyer thought that current practices resulted in too much supervision.

The lawyers were asked how they thought LIC/paralegal supervision ought to be changed in order to optimize it. Seventy percent said current practices already resulted in optimum supervision and should not be changed. One lawyer said that supervision could be reduced from full to partial status. Two lawyers said that the level and frequency of supervision should be increased. One of these was the lawyer who had been barred from supervising the LIC/paralegal's work by the local Board of Directors.

2.1.2.1.5 Conclusions on Paralegal Supervision

The supervision of LIC's/paralegals by lawyers seemed to be conducted in accordance with the requirements of the Legal Services Society Act and Legal Services Society policies and procedures in most service offices around the province. Lawyers and LIC's/paralegals appeared to have common understandings about the purpose, level and frequency of supervision. Lawyers and LIC's/paralegals seemed to agree that current supervisory practices were working well.

In two isolated situations, supervision had broken down and LIC's/paralegals were performing legal work without the benefit of any supervision at all. One of these situations had existed for at least six months at the time interviews were conducted. Although in both cases the LIC's/paralegals were employed by funded agencies rather than by the LSS itself, the LSS nevertheless has an ultimate professional responsibility to ensure that all persons providing legal services under the terms section 9 of the Legal Services Society Act do so in accordance with the act. We would recommend, therefore, that the LSS develop and implement a procedure for monitoring the LIC/paralegal supervision process in all service offices that make use of LIC/paralegal personnel.

2.1.2.2 Patterns in the Work of Paralegals

2.1.2.2.1 Perceptions of the Work of Paralegals

Perceptions of the work performed for the Legal Services Society [LSS] by LIC's/paralegals were measured in three ways. (1) A general survey of the members of the British Columbia Law Society, which asked about many aspects of legal aid in the province, included several questions about the work of the LSS LIC's/paralegals. [This survey of the private bar was described in Chapter 1.] (2) The Delphi exercise which asked staff in the LSS head office and in the various service offices to describe current policies and practices, and to indicate preferences for various future policies and practices, included a series of questions about the work of paralegals in its first round. [The Delphi exercise was described in Chapter 1.] (3) The

1983 office staff interviews conducted at virtually all of the service offices around the province during the late spring and early summer of 1983 included a substantial number of questions about the work of LIC's/paralegals.

2.1.2.2.1.1 Perceptions of the Private Bar

The members of the Law Society of British Columbia who responded to the survey did not believe that the LSS LIC's/paralegals generally attempt to provide services on matters more properly handled by lawyers. This is a matter of some professional concern, because under the Legal Services Society Act, a paralegal could, under the supervision of a lawyer and with leave of court, undertake virtually any professional legal task ordinarily reserved to lawyers by the Barristers and Solicitors Act.

More than half of the members of the Law Society who responded to the survey (55.7 percent) disagreed with the statement "Paralegals tend to encroach too much on matters properly handled by lawyers." By contrast, only about one-sixth (16.4 percent) of the lawyers agreed with the statement. The remaining respondents (27.9 percent) were uncertain.

2.1.2.2.1.2 Perceptions of LSS Staff

2.1.2.2.1.2.1 What Do Paralegals Do ? The Delphi Data

Staff at the Legal Services Society Head Office, in LSS Branch Offices, and in the other principal funded service offices (CLO/AD's, CLO's, and NCLO's) were asked whether and how heavily LIC's/paralegals employed by the LSS or LSS funded agencies were involved in six major types of legal service work across the province. The answers reveal what people think LIC's/paralegals do, not what they actually do.

Generally Head Office, Branch Office, and CLO's and CLO/AD's had similar views about the level of involvement of LIC's/paralegals (Table 3-18). All Delphi groups saw major LIC/paralegal involvement in non-representational advocacy work such as extended contact or work for a client involving writing letters, filling out forms and preparing for a court or tribunal appearance. All Delphi groups saw major LIC/paralegal involvement in providing information, advice and screening applicants for referral. LIC's/paralegals were seen to be less involved with community development activities such as specific outreach programs designed to help groups organize to promote civil rights, human rights or law reform, or in direct representation of clients in

TABLE 3-10

LEVEL OF PARALEGAL INVOLVEMENT

	NO INVOLVEMENT		MINOR		MAJOR		NO RESPONSE	
Direct Rep								
Head Office	0	0%	9	75%	2	16.7%	1	8.3%
Branch Office	7	33.3%	7	33.3%	6	28.6%	1	4.8%
CLO, CLO/AD	2	15.4%	5	38.5%	5	33.5%	1	7.7%
	Chi Square = 8.71, d.f.=.4, p=.07							
Non-Representational Advocacy								
Head Office	0	0%	1	8.3%	10	83.3%	1	8.3%
Branch Office	3	14.3%	2	9.5%	15	71.4%	1	4.8%
CLO, CLO/AD	2	15.4%	1	7.7%	10	76.9%	0	0%
	Chi Square = 7.77, d.f.=4, p=.10							
Advice								
Head Office	0	0%	1	8.3%	10	83.3%	1	8.3%
Branch Office	2	9.5%	4	19.0%	14	66.7%	1	4.8%
CLO, CLO/AD	2	15.4%	1	7.7%	10	76.9%	0	0%
	Chi Square = 1.35, d.f.=4, p=.85							
Information								
Head Office	0	0%	0	0%	11	91.7%	1	8.3%
Branch Office	1	4.8%	3	14.3%	16	76.2%	1	4.8%
CLO, CLO/AD	1	7.7%	2	15.3%	10	76.9%	0	0%
	Chi Square = 2.9, d.f.=4, p=.57							
Screening and Referral								
Head Office	0	0%	2	16.7%	9	75.0%	1	8.3%
Branch Office	1	4.8%	4	19.0%	15	71.4%	1	4.8%
CLO, CLO/AD	1	7.7%	2	15.4%	10	76.9%	0	0%
	Chi Square = .93, d.f.=4, p=.92							
Community Development								
Head Office	0	0%	7	58.3%	4	33.3%	1	8.3%
Branch Office	3	14.3%	10	47.6%	7	33.3%	1	4.8%
CLO, CLO/AD	2	15.4%	5	38.5%	6	46.2%	0	0%
	Chi Square = 2.98, d.f.=4, p=.56							

court or at tribunals. In fact, one-third of staff from Branch Offices thought, incorrectly, that LIC's/paralegals had no involvement in court appearances or tribunal hearings.

In general, the LSS staff thought that paralegals were most heavily involved in providing legal information and legal advice to individuals, in providing non-representational advocacy services, and in screening and referral of clients to appropriate services. LSS staff thought that paralegals were least involved in community development activities and in direct representation of clients before courts and tribunals. Even in the activity in which LSS staff perceived least involvement, direct representation, more than three-fourths thought that paralegals were involved in the provision of services to at least a minor degree province wide. Moreover, a higher proportion of staff thought that paralegals were involved to a major degree in direct representation than thought that paralegals were not involved at all. LSS staff perceive that paralegals are involved in virtually all aspects of legal service delivery.

2.1.2.2.1.3 LSS Staff Perceptions of Paralegals: Office Interview Data

A total of 36 professional and para-professional staff, 21 lawyers and 15 LIC's/paralegals, were interviewed during the course of the 1983 service office staff interviews. They were asked a variety of questions about how they perceived the role and work of paralegals employed by the LSS and its funded agencies. Their responses can be used to illuminate the perceptions of paralegal work gained from the Delphi survey and also set the stage for a comparison of work performed by LSS staff lawyers and LIC's/paralegals.

2.1.2.2.1.3.1 Staff Lawyer Perceptions of the Role of Paralegals

The staff lawyers in the LSS Branch Offices, in the CLO/AD's, and in the NCLO's were asked what roles they thought LIC's/paralegals played in the delivery of legal services to the poor. More than one fourth of the lawyers said they had no basis for judgment and could not respond to the question.

One third (7) of the lawyers said that LIC's/paralegals constitute a cost-effective means of providing legal advice and information to most clients. Twenty-nine percent (6) of the lawyers said that LIC's/paralegals play an important role as specialized advocates representing clients before administrative tribunals and quasi-judicial bodies. Three lawyers said LIC's/paralegals are a cost-effective means for delivering legal services to remote areas where the population base will not justify the expense of a staff lawyer, but two said that LIC's/paralegals are primarily useful in handling the large caseloads of major population centres. Three lawyers or fourteen percent of those interviewed said that paralegals are useful for community development because they are good at keeping in touch with the social pulse of the community.

By way of contrast, one senior staff lawyer, experienced at using staff paralegals, said that paralegals are not cost effective under the current training system because they take a long time to train up to high levels of proficiency. This lawyer said that paralegals fit poorly into the legal aid model that he believes has come to dominate the Legal Services Society, and predicted that paralegals would be phased out by the LSS in the near future.

LSS staff lawyers appear to hold no general consensus about the role of paralegals in delivering legal services. No single role was identified by a majority of the lawyers who advanced opinions. The most frequently mentioned roles, in descending order, were: cost-effective delivery of advice and information; provision of representational services before tribunals; provision of legal services in remote areas with small population bases; and community development activities.

2.1.2.2.1.3.2 Are There Some Things That Only A Lawyer Can Do?

Since the Legal Services Society Act appears to specify conditions under which a paralegal can perform any legal task that could be performed by a lawyer, staff lawyers and LIC's/paralegals were asked whether there were some things that must be done by a lawyer and cannot be done by a paralegal.

There was wide-ranging agreement among almost all respondents on this question. Ninety-four percent of the respondents, all of the lawyers and 87 percent of the LIC's/paralegals, said that there are some things that must be done by a lawyer and cannot be done by a paralegal.

Agreement about what must be done by a lawyer and not by a paralegal was not so overwhelming, but was nevertheless substantial. A majority of the respondents, 62 percent of the lawyers and 46 percent of the LIC's/paralegals, said that only lawyers and not LIC's/paralegals can make court appearances. Many of the lawyers appeared to be under the impression that LIC's/paralegals were prohibited, as a matter of law, from appearing in court as counsel under any circumstances.

Other areas of legal service mentioned by staff lawyers as matters requiring lawyers and unsuitable for paralegals included, in descending order of frequency: civil litigation, mentioned by four of 21 lawyers; serious criminal matters, in depth legal advice, and drawing pleadings, all mentioned by three of 21 lawyers; and family matters, and situations where a lawyer had become involved for the other side of the dispute. Two staff lawyers said that paralegals could not perform any task normally performed by a lawyer.

Real property matters were mentioned by six of 13 LIC's/paralegals as matters requiring the services of a lawyer and not appropriate for paralegals. This is ironic, since real property matters are the most frequently cited example of legal matters that are singularly appropriate for delegation to paralegals in the private practice environment. Other matters mentioned by LIC's/paralegals as requiring the services of a lawyer were, in descending order: civil litigation and serious criminal matters, both mentioned by 31 percent of the paralegals; drawing contracts, large property settlements in family law, and appeals, all mentioned by 23 percent of the paralegals. Three LIC's/paralegals said that there was no legal task that could not be performed by a properly trained and supervised LIC/paralegal.

2.1.2.2.1.3.3 Can Paralegals Do Some Tasks Better Than Lawyers?

Asking this question produced strikingly different responses from lawyers and paralegals. Forty-three percent of the lawyers said that there were no tasks that paralegals could do better than lawyers. By contrast, all of the LIC's/paralegals and 57 percent of the lawyers said that there were some LSS tasks that paralegals could indeed do better than lawyers. Overall, 75 percent of the respondents said that paralegals could do some tasks better than lawyers could.

Experience with paralegals made a substantial difference in lawyers' perceptions of LIC's/paralegals' ability to do some tasks better than lawyers. Among staff lawyers who had paralegals working in their offices, almost

80 percent said that there were some things that paralegals could do better. Among lawyers who did not have paralegals working in their offices, almost 60 percent said that there were no tasks that paralegals could do better than lawyers.

There were distinct patterns by office type, largely reflecting experience with staff paralegals. All respondents in CLO's and NCLO's, and 80 percent of the respondents in CLO/AD Offices said that there were some things that LIC's/paralegals could do better than lawyers. By contrast, the Branch Offices, which have the lowest ratio of paralegals to other staff, split 50/50 over the question.

LIC's/paralegals and lawyers generally agreed on the characteristics of the tasks at which paralegals were perceived to be superior, though the rankings differed slightly. Overall, the respondents agreed that LIC's/paralegals are better at assessing the client's legal problems in the context of some broader set of social and economic problems and of providing advice and assistance designed to meet the full set of problems. This was expressed in various ways. "Lawyers want clearly defined legal problems", said one LIC/paralegal. "Paralegals have the time to engage in more personal counselling", said another.

Forty-eight percent of the respondents agreed that LIC's/paralegals were typically better at administrative tribunal work than were lawyers. As one lawyer put it, "lawyers instinctively follow the rules of evidence in organizing a case, but the rules of evidence usually don't apply in tribunals." Another lawyer said "lawyers often become too adversarial to benefit their client in a tribunal hearing. Tribunals tend to operate on a cooperative problem-solving model. Adversarial efforts are frequently counterproductive."

A few lawyers thought that paralegals might be superior at such tasks as the preparation of routine, standardized, but highly technical documents; at empathizing with clients; or at practicing some specialized areas of law such as welfare law and family law. A few LIC's/paralegals thought that paralegals might be better than lawyers at mediation in order to avoid court; at empathizing with and cousellling clients; at taking the time to provide basic legal information where there was no actual legal matter yet in issue; and at some specialized areas of practice, such as small claims matters.

2.1.2.2.1.3.4 Do Paralegal and Lawyer Interactions with Clients Differ?

LIC's/paralegals and lawyers generally agreed that they have distinctly different interactions with clients. Eighty-six percent (31) of the respondents said that client interactions are different, only eight percent (3) said that LIC/paralegal and lawyer interactions with clients do not differ. (Two persons said that they did not know).

There was a strong consensus across all lawyers and LIC's/paralegals about how client interactions differ. Seventy-seven percent or 24 out of 31 persons interviewed said that LIC's/paralegals take more time with clients than lawyers do; that LIC's/paralegals explore the legal problem in the context of wider human and personal problems while lawyers focus on the resolution of legal issues; and that LIC's/paralegals provide a lot of social counselling while lawyers do not. One lawyer described the difference this way, "Paralegals listen to the whole problem and give advice to suit; lawyers give legal advice". Another lawyer, somewhat sarcastically, said "Paralegals try to make people feel good; lawyers try to solve people's problems."

Three or 10 percent of the respondents said that there was less social distance between paralegals and clients. Consequently, they said, paralegals had more open and informal interactions with clients, while lawyers had formal, legally focussed interactions with clients. One lawyer suggested that lawyers have long-term relationships with clients because they deal with clients who have complex legal problems; while paralegals deal with clients whose problems are, legally, relatively simple and therefore have short-term relationships with their clients.

2.1.2.2.1.4 Summary of Perceptions of Paralegal Work

The Legal Services Society staff generally believe that staff LIC's/paralegals are heavily involved in giving legal information and advice, in non-representational advocacy, and in screening clients and referring them to appropriate social and legal services. They think that LIC's/paralegals are least involved in community organization and in representational services. In fact, some 20 percent of the LSS staff think that paralegals are not involved in providing representational services at all.

Staff lawyers who have an opinion tend to think that paralegals are a cost effective way of meeting the LSS mandate to provide legal information and advice to all British Columbians. Many also think that paralegals are particularly useful as specialized administrative tribunal advocates. Some staff lawyers think that paralegals would be a cost effective way of providing legal services in remote areas with small populations, but almost as many think that paralegals are only effective in large population centres where they can serve as technical specialist adjuncts to lawyers.

There was broad agreement among the LSS staff lawyers and staff paralegals that there are some tasks that must be performed by a lawyer and should not be performed by a LIC/paralegal. A majority of all staff said that lawyers, not paralegals, should appear in courts as counsel. Lawyers also mentioned civil litigation, serious criminal matters, legal advice, and pleadings. Paralegals mentioned real property matters, civil litigation, and serious criminal matters. Ten percent of the lawyers said that paralegals cannot do anything normally done by a lawyer. Thirteen percent of the paralegals said that they can do anything that a lawyer can do. A majority of private lawyers surveyed indicated that LSS paralegals undertake an acceptable range of tasks: at least, they do not believe that paralegals undertake work that ought, properly, to be done by a lawyer.

All staff LIC's/paralegals and a majority of staff lawyers believe that there are some legal aid services that can better be provided by LIC's/paralegals than by lawyers. Principally, these services fall into two categories: provision of social services addressed to wider problems of which discrete legal problems are an integral part; and, administrative tribunal advocacy. Most lawyers (80 percent) who had had experience working with LIC's/paralegals believed that there were some tasks at which LIC's/paralegals were superior to lawyers, while most lawyers (60 percent) who had not had experience working with LIC's/paralegals tended to think that there were no tasks at which a paralegal was better than a lawyer.

There was a very strong consensus among all staff that paralegals and lawyers have different types of interactions with clients. There was also broad agreement that paralegals take more time with clients, listen to and try to address a wider variety of problems, and pay more attention to matters which are not strictly legal issues than do lawyers.

The picture that emerges looks something like this. Paralegals are perceived as the front end of the legal aid system. They provide information and advice; they provide counselling and referral for people whose problems are primarily social rather than legal; and they provide representational services before administrative tribunals. In a sense, paralegals are perceived as semi-professional buffers who insulate lawyers from a variety of non-legal and minor legal chores and from having to take cases before administrative tribunals.

2.1.2.2.2 The Work of Staff Lawyers and Staff LIC's/Paralegals

The actual working patterns of staff lawyers and staff paralegals are derived from structured information provided by 21 staff lawyers and 15 staff paralegals interviewed during the late spring and early summer of 1983. Both lawyers and paralegals were asked to estimate the proportion of a typical month's working time they, personally, spent at a variety of legal service tasks defined on the one hand by Legal Service Society Act requirements, and by the definition of legal tasks contained in the Barristers and Solicitors Act on the other.

Several cautions should be kept in mind when considering the following analysis. First, respondents were asked to estimate the proportion of their own time spent working in each area. The patterns that emerge from these estimates are different from the office work pattern estimates presented in Chapter 1. In making office work pattern estimates, respondents were free to take the working patterns of other staff lawyers and paralegals, of clerical support staff, and of volunteers, if any, into account. Unless, by chance, the work pattern of the person making the personal estimate happened to be identical to the work pattern of the office as a whole, the patterns derived from the two exercises should be different.

Second, the sample of staff lawyers and paralegals who were interviewed was dictated by availability and willingness to participate and was directed towards more senior staff. It cannot be said that the patterns might not appear somewhat different had all staff lawyers and all staff paralegals been interviewed.

2.1.2.2.2.1 Estimates of Working Time Spent at Different Legal Tasks

Staff lawyers and staff paralegals were asked to estimate the proportion of a typical month's working time spent at each of 19 different tasks clustered into seven broad groupings: direct representational services; non-representational advocacy; advice and information for individuals; public legal education; interviewing clients; legal research; and office and administrative tasks.

Direct representational services included (1) appearing in court as counsel or advocate, a task generally believed to be the professional domain of lawyers. They also included (2) appearing before an administrative tribunal or other quasi-judicial body (including small claims court) as counsel or advocate, a task generally believed to be a major function of paralegals.

Non-representational advocacy included preparing documents for use in (3) a superior court, (4) an inferior court, or (5) an administrative tribunal or other quasi-judicial body; otherwise drawing, revising, settling or otherwise working on a document or instrument related to (6) a corporate body, (7) a will, trust, estate, or the probate or administration of a deceased person's estate, (8) proceedings under any statute of Canada or the Province, (9) a government regulation or a municipal by-law, (10) for registration or recording of personal or real property; (11) doing something with respect to settling a claim in tort; and (12) drawing, revising, settling or otherwise working on a written contract. It also included (13) providing short services such as writing a letter of inquiry or making a phone call on behalf of the client.

Advice and information included the provision of legal advice to individuals and the provision of general legal information to individuals. Public legal education included conducting public legal education programmes of all types and, because of its relative rarity, community organization activities. Time spent interviewing clients, and doing legal research, and office and administrative tasks are relatively self-explanatory and round out the work picture.

The self-estimated patterns of work are only partially consistent with the perceptions held by the LSS staff. Lawyers reported spending almost one-fourth of their working time providing direct representational services to clients. Virtually all of this time was spent at court (Table 3-19). LSS staff lawyers spent very little time representing clients before tribunals. LIC's/paralegals estimated that they spent a very small proportion of their time providing direct representational services - about one and a half days out of each working month. In contrast to the expectations derived from the overall LSS staff perceptions, LIC's/paralegals estimated that they spent more time in court than they spent before tribunals during a typical working month.

Lawyers and LIC's/paralegals both spent a significant amount of their working month providing non-representational advocacy services to clients. Staff lawyers estimated an average of almost 30 percent of their time spent on non-

TABLE 3-19

PERCENTAGE OF TIME SPENT AT DIFFERENT TASKS BY LAWYERS AND PARALEGALS
AVERAGE ESTIMATES FOR A TYPICAL MONTH'S WORK

TASK	STAFF LAWYERS	PARALEGALS
Direct Representation Services		
At Court	20.3%	4.7%
At a tribunal	2.9	2.0
Total	23.2%	6.7%
Non-Representational Services		
Preparing documents for use in court or tribunal	8.0	8.5
Drawing or settling documents, negotiation, etc.	13.5	14.4
Short Services	8.4	12.5
Total	29.9%	35.4%
Advice and Information		
Interviewing Clients	9.5	13.3
Legal Advice	10.7	6.7
General Legal Information	6.8	15.8
Total	27.0%	35.8%
Public Legal Education	2.6	4.6
Legal Research	7.6	5.4
Office and Administrative Tasks	9.6	12.0

[Note that the columns do not add up to exactly 100% because of rounding.]

representational advocacy. Paralegals estimated an average of 36 percent of their time. The relative mixtures of court or tribunal document preparation; legal instrument or document drafting, and short service are similar.

Staff lawyers estimated that they spent, on average, slightly more than 2 working days a month giving specific legal advice, and more than a full working day giving general legal information to clients. LIC's/paralegals estimated that they spent almost a quarter of their time giving legal advice and providing general legal information to clients, more than four and a half working days in a typical month. LIC's/paralegals spend relatively more time giving clients legal information and less time giving legal advice than lawyers.

Public legal education plays a very minor role in the normal working patterns of either staff lawyers or LIC's/paralegals. Lawyers spend about half a working day on PLE in a normal working month. LIC's/parlegals do more PLE than lawyers, but it still involves less than a full working day in a typical month.

Lawyers reported spending about a day and a half each month doing legal research and about two working days a month interviewing clients. Paralegals, surprisingly, spend less time on legal research than lawyers do, but, consistent with general LSS perceptions, spend more time interviewing clients.

Many of the lawyers and paralegals interviewed in 1983 complained bitterly about the massive quantities of office and administrative chores they were required to perform, both to run the local office and to meet requirements of LSS Head Office. That burden was not reflected in their working time estimates, however. Lawyers, most of whom were office directors, estimated that under 10 percent of their time, two working days a month, went to office and administrative tasks. Paralegals estimated that 12.4 percent of their time on average, about two and a half working days per month went to office and administrative chores.

2.1.2.2.2.2 Types of Law Involved in Different Legal Services

We asked lawyers and paralegals to tell us about the types of law they were typically involved with in providing different types of legal services. For some types of services, they were able to estimate the proportions of that service involved in different areas of law during a typical working month: direct representation in court and before tribunals; legal drafting. For other types of services, they were only able to indicate the areas of law most commonly dealt with, without attempting to provide any relative weighting.

2.1.2.2.2.2.1 Direct Representation in Court

Staff lawyers estimated that about 43 percent of their court work involved criminal law, 23 percent involved debt or foreclosure matters, 16 percent involved family law, and about 8 percent involved contracts. LIC'S/paralegals estimated that of the little court work they do, 72 percent involves criminal law, principally as duty counsel; 10 percent involves contract law; about 9 percent involves family law; and about 8 percent involves tort law. Clearly, even with the tariff referral system, staff lawyers and staff LIC's/paralegals around the province are heavily involved in providing criminal defence services to the poor. Lawyers in a number of Branch Offices, in particular, said that they principally functioned as public defenders.

2.1.2.2.2.2.2 Before Administrative Tribunals

Neither lawyers nor LIC's/paralegals do much work before administrative tribunals. For lawyers, almost half (47 percent) involves workers' compensation law; about 16 percent involves landlord and tenant law; and about 13 percent involves welfare law. LIC's/paralegals have a rather different tribunal practice. They estimate that more than half (52 percent) of their tribunal work involves welfare law; about a fifth of their tribunal work involves workers' compensation law; and about 13 percent involves unemployment insurance compensation.

2.1.2.2.2.2.3 Non-Representational Advocacy

2.1.2.2.2.2.3.1 Document and Instrument Drafting

Lawyers estimated that civil pleadings accounted for 42.6 percent of the legal drafting that they do. No other legal category was estimated to make up as much as 10 percent of this type of work. Areas of law, ranked from most common to least common included wills and estates, family law, criminal pleadings, contracts, workers' compensation, corporations, landlord and tenant, and immigration law.

LIC's/paralegals reported a very different drafting practice. They estimated that family law accounted for a quarter of their document and instrument drafting. Wills and estates accounted for about 19 percent, and civil pleadings accounted for about 18 percent of their drafting work. Various other matters, in descending order of importance, included real property, contracts, immigration, and small claims court papers. Paralegals said that affidavits accounted for about 6 percent of their drafting work.

2.1.2.2.2.2.3.2 Short Service

Among areas of law involved in short service to clients, general civil law was mentioned by 73 percent of respondent staff lawyers, debtor/creditor law was mentioned by 40 percent, and family law and criminal law were each mentioned by 33 percent. Welfare law was mentioned by 20 percent of staff lawyers, while workers' compensation and unemployment insurance compensation were each mentioned by 13 percent.

Paralegals reported a rather different short service practice. Criminal law, family law and welfare law were all mentioned as common subjects of short service by two-thirds of the paralegals. Unemployment compensation was mentioned by half of the paralegals, while workers' compensation, consumer law and debt were mentioned by 42 percent. One third of the paralegals mentioned landlord/tenant law, labour law, and small claims as common subjects of short service.

2.1.2.2.2.2.4 Advice and Information

2.1.2.2.2.2.4.1 Legal Advice

Lawyers were unable to distinguish between legal advice and information sufficiently to provide separate estimates. Criminal law was the most frequently mentioned subject of legal advice, mentioned by 88 percent of the respondent staff lawyers. Family law and a cluster of debt, bankruptcy, and foreclosure matters were the second most frequently mentioned subjects of legal advice, each being mentioned by 76 percent of the staff lawyers. Contract, mentioned by 41 percent, tort, mentioned by 35 percent, and real property, mentioned by 29 percent of the lawyers, trailed far behind the leading areas of law.

LIC's/paralegals cited family law (82 percent of respondents), criminal law (73 percent) and landlord/tenant law (55 percent) as the most common subjects of legal advice. Welfare law, debt, wills and estates, and labour law were all mentioned as common subject of legal advice to clients by 27 percent of the paralegals.

2.1.2.2.2.2.4.2 General Legal Information

Eighty percent of the LIC's/paralegals mentioned family law as a common subject about which clients sought general legal information. Criminal law and landlord/tenant law were the next most common areas on which general legal information was provided: each subject was mentioned by 60 percent of the respondent LIC's/paralegals. Consumer law, small claims, and debt were each mentioned by forty percent of the LIC's/paralegals.

2.1.2.2.2.3 Other Patterns of Paralegal Work

2.1.2.2.2.3.1 Eligibility Determinations

LIC's/paralegals play a major role in making determinations of client eligibility for legal services in most offices where they are present. Three offices said that LIC's/paralegals made 100 percent of all criminal legal aid eligibility determinations. One office said that LIC's/paralegals made 95 percent of the decisions on criminal legal aid, and another office said that LIC's/paralegals made 90 percent of the criminal legal aid eligibility determinations. In the Greater Vancouver region, half of the service offices said that LIC's/paralegals made 90 percent or more of all criminal legal aid eligibility determinations.

This is an important recognition, on a threshold work level, of the practical legal skills of LIC's/paralegals. The criminal legal aid eligibility decision requires that, in addition to an assessment of financial situation, the decision-maker assess the legal quality and character of the applicant's case in the light of local sentencing practices in order to determine the probability of incarceration in the event of conviction.

The determination of eligibility for legal aid in family law matters and in civil law matters not covered under any tariff involves an even more delicate legal judgment of the merits of the applicant's case. Half of the CLO/AD's said that 90 percent or more of all family and civil law eligibility determinations are made by LIC's/paralegals. Two CLO/AD's, in fact, said that all family and civil law eligibility determinations made in their offices were made by LIC's/paralegals. Under eligibility rules introduced by the LSS restraint program, CLO's are required to make eligibility determinations prior to providing all but the briefest of family and civil law services. Half of the CLO's reported that LIC's/paralegals made 100 percent of the family and civil law eligibility determinations made in their offices.

2.1.2.2.2.3.2 Duty Counsel

Outside a few major population centres, duty counsel services constitute one of the major functions of the LSS service offices. This represents a continuation of a major function of the legal aid offices established by the Legal Aid Society and documented by Morris and Stern in their study of legal services for the economically disadvantaged in British Columbia in 1976. [Pauline Morris and Ronald N. Stern, Cui Bono?: A Study of Community Law Offices and Legal Aid Society Offices in British Columbia (rev. ed.). Vancouver: Ministry of the Attorney-General, October, 1976.]

Paralegals play a significant role in the provision of duty counsel services to the criminally accused in a number of locations around the province. This marks a substantial change from the mid-1970's, when Morris and Stern found no examples of paralegals serving as duty counsel and few examples of paralegals playing the related but legally less extensive role of courtworker.

Half of the CLO/AD offices reported LIC's/paralegals attending court as duty counsel. One of these said LIC's/paralegals provided all duty counsel services, attending court four days a week in two different communities. Another said that LIC's/paralegals provided 25 percent of duty counsel coverage in any given month, with the remainder contracted out to local private lawyers. The third said that LIC's/paralegals attended court as courtworkers when private lawyers were available to provide duty counsel services, but that LIC's/paralegals frequently acted as duty counsel because no lawyers were available.

LIC's/paralegals at two offices in Greater Vancouver provided duty counsel services. At one office, a special project office, the paralegal, who had been specially trained in criminal defence, provided all duty counsel services in the community. In another office, paralegals served as duty counsel at court three days a week.

Half of the NCLO's reported LIC's/paralegals serving as duty counsel. In all cases, LIC's/paralegals and staff lawyers divided duty counsel coverage on a 50/50 basis.

2.1.2.2.2.4 Working Relations With Other Social Agencies

Finally, staff lawyers and LIC's/paralegals were asked to assess the quality and frequency of working contacts they had with a variety of social and governmental agencies. The responses suggest substantial differences in working patterns, but a surprising similarity in the types of legal problems handled.

2.1.2.2.2.4.1 Quality of Working Contacts

Overall, LIC's/paralegals were generally perceived to have better working relationships with outside agencies than lawyers were thought to have. This is almost certainly a product of the lawyer's adversarial model of legal work, contrasted with the paralegal's view that many legal situations are best handled by mediation and cooperative problem solving.

LIC's/paralegals were thought by lawyers and LIC's/paralegals alike to have better working relationships than lawyers with probation and family court counsellors, with sheriff's offices, with court registries, with judges, with native court workers, with Ministry of Human Resources social workers, with workers in other social service agencies, with Department of Indian Affairs staff, and with Legal Services Society Head Office staff. Lawyers were thought to have better working relationships than paralegals with the police, the private bar, and Crown counsel.

2.1.2.2.2.4.2 Frequency of Working Contact

The perceived quality of working contacts may, of course, merely be a product of the frequency of contact. Frequency does not appear to explain perceived quality of contact among the staff lawyers and LIC's/paralegals who were interviewed during 1983, however. The patterns of contact were very similar.

The five social and governmental agencies most frequently contacted by staff lawyers in the course of their work in rank order were: (1) probation officers/family court counsellors; (2) MHR social workers; (3) Crown counsel; (4) court registry; and (5) the police. The five social and governmental agencies most frequently contacted by LIC's/paralegals were: (1) MHR social workers; (2) probation officers/family court counsellors; (3) the private bar; (4) court registries; and (5) the police.

The lawyers' patterns of contact suggest a practice centered around criminal law, family law, and welfare law. The LIC's/paralegals' patterns of contact suggest a practice centered around welfare law, family law, and criminal law. Judged from the perspective of the agencies most frequently contacted in day-to-day work, the two practices seem to be separated by matters of emphasis rather than by any great difference in substantive law.

2.1.2.2.2.5 Summary of Paralegal Working Patterns

Assessed in terms of areas of law reported as commonly dealt with, staff lawyers and LIC's/paralegals had somewhat different practices. Staff lawyers might be described as conducting a general litigation practice with emphasis on criminal defence. LIC's/paralegals go to court, overwhelmingly, on criminal matters. Staff lawyers report relatively little concentration of legal drafting in any area of law other than civil pleading; LIC's/paralegals report a significant amount of instrument drafting in matters of family law and wills and estates. Short services by lawyers are most frequently related to matters of general civil litigation, and to debt and foreclosure. Short services by LIC's/paralegals are most frequently related to criminal, family and welfare law.

LIC's/paralegals and lawyers spend their working time in different ways. Staff lawyers spend almost a quarter of their time at court or tribunal. LIC's/paralegals do relatively little direct representation. LIC's/paralegals do, however, appear as duty counsel in a substantial number of locations.

LIC/paralegal work patterns diverge from generally held beliefs in two noteworthy ways. First, LIC's/paralegals are generally perceived as administrative tribunal litigation specialists. But LIC's/paralegals report doing little more tribunal work than do staff lawyers. Moreover, the fact that LIC's/paralegals include only one administrative agency among the five they most frequently contact in the course of work reinforces the finding that they do much less tribunal advocacy than is generally assumed. Second, although LIC's/paralegals are generally believed to spend much more time than lawyers in interviewing, advising, and counselling clients, neither the amount of time reported as spent on such functions as interviewing clients, providing advice and information, and giving short services, nor the mixture of subject matters reported as commonly dealt with by paralegals supports the belief.

Staff LIC's/paralegals practice in all areas of law. They undertake little litigation, but they do report doing some. They provide duty counsel services in locations throughout the province. They do more legal instrument drafting and more frequently provide general legal information than staff lawyers. Their practice is more heavily related to family, criminal and welfare law than staff lawyers, on the whole. It appears that LIC's/ paralegals provide much of the baseline legal aid service in situations in which clients do not qualify for representational services under the legal aid plan. There is no evidence that LIC's/paralegals provide significant amounts of service in such areas as public legal education or community development.

2.1.3 Perceptions of the Quality of LIC/Paralegal Work

The evaluation attempted to assess perceptions of the quality of services performed by LIC's/paralegals in several ways. LIC's/paralegals themselves were asked to provide a numeric summary estimate of the quality of work performed by LSS LIC's/paralegals throughout the province. The Delphi exercise conducted with LSS staff asked for a series of judgments about the relative ability of staff LIC's/ paralegals and lawyers to provide a variety of different services to clients. Finally, the evaluation examined whether clients served in offices with staff paralegals reported different levels of satisfaction with the services received than clients served at offices without staff LIC's/paralegals.

2.1.3.1 LIC's/paralegals' Self-Assessments of Quality

Staff LIC's/paralegals were asked to make a self-evaluation of the quality of legal services provided by paralegals across the province by rating those services, overall, on a scale of 1 to 5, where 1 was very low quality and 5 was very high quality. Paralegals are self-confident. The mean quality score was 4.5. The range was 3 to 5.

2.1.3.2 The Delphi Assessment

The Delphi exercise conducted among staff at the Legal Services Society Head Office, LSS Branch Offices, and LSS funded agency service offices included a series of questions that compared the relative ability of staff lawyers and staff LIC's/paralegals to perform a variety of services for clients. The results are arrayed on a scale that ranges from - 5.0 to + 5.0. Results with a negative value indicate that respondents thought that paralegals could do that task better than lawyers. The larger the negative value, the stronger the belief. Results with a positive value mean that the respondents thought that lawyers could do the task better than paralegals. The larger the positive value, the stronger the belief. Values close to zero show no preference for lawyers or LIC's/paralegals doing the task. The "signs", positive or negative, have only relative value. Unlike many scales small or negative does not mean "bad" and large or positive does not mean "good".

Table 3-20 lists the questions asked the Delphi participants and their average responses. There was general agreement across staff from Head Office, Branch Offices and CLO's and CLO/AD's on which tasks lawyers were better and at which tasks LIC's/paralegals were better. There was general agreement that lawyers were better at determining all the relevant facts of a client's legal problem and making low income clients feel they had received superior quality legal advice. LIC's/paralegals were seen as better at assisting clients with non-legal problems and encouraging a "self-help" approach to a client's legal problem. Delphi participants saw little difference between staff lawyers and LIC's/paralegals in making low income clients feel they are listened to, in giving superior quality legal advice, in giving advice low income clients understand or will follow.

Staff see staff lawyers and LIC's/paralegals as similar in giving high quality, understandable legal advice and getting clients to follow the advice. Consistent with previously reported views and stereotypes, LSS staff saw lawyers as better at core determination of legal facts and as projecting an image of superior services. LIC's/paralegals were seen as being better at the non-legal side of helping.

2.1.3.3 Client Satisfaction

In the interviews with people who had applied for legal aid in various parts of the province, twenty-three percent of the applicants did not know whether the main person to whom they had spoken was a lawyer, a LIC/paralegal, an articling law student, or a secretary/legal assistant. Of those who said that they did know the professional status of the main person to whom they had spoken, 64.7 percent said they had spoken to a lawyer; 19.5 percent said they had spoken to a paralegal; 7.1 percent said they had spoken to an articling student; and 8.1 percent said that they had spoken to a secretary. With what is known about the distribution of work in offices, these estimates are unlikely to be correct.

As already reported, clients of all kinds, both accepted and rejected legal aid applicants, were very satisfied with the services they had received from the LSS service offices. Given the generally held perceptions that LIC's/paralegals spend more time with clients, pay more attention to clients' ancillary, non-legal problems, and communicate more easily and more clearly with clients than lawyers do, there was reason to expect that offices with staff LIC's/paralegals might have higher overall levels of client satisfaction than offices without LIC's/paralegals.

TABLE 3-20

STAFF VIEWS OF ABILITY OF STAFF LAWYERS AND PARALEGALS TO PERFORM SELECTED TASKS

	HEAD OFFICE	OFFICE	CLO CLO/AD	F-RATIO	SIGN.	
Who is better at: Determining all the relevant facts?	3.1	3.6	2.75	1.1	0.34	Not Significant
Assisting clients with non-legal problems	-3.0	-2.6	-2.8	0.2	0.85	Not Significant
Encouraging self-help	-3.3	-1.8	-3.0	1.5	0.23	Not Significant
Making low income clients feel they are "listened to"	-1.9	-0.8	-2.2	0.9	0.41	Not Significant
Making low income clients feel they receive superior quality legal advice	2.8	3.0	1.7	1.3	0.29	Not Significant
Giving low income clients superior quality legal advice	0.3	1.7	0.9	0.93	0.41	Not Significant
Giving low income clients advice they can understand	-2.1	-0.8	-1	1.0	0.39	Not Significant
Giving advice that low income clients will follow through on	-0.1	1.9	1.1	1.5	0.24	Not Significant

The summary advice client satisfaction interview contained two questions that went to these perceptions about LIC's/paralegals. One asked clients whether they felt they had enough time to fully explain their problems. The other asked clients whether they were satisfied with the amount of time spent on their problems by LSS staff. Persons going to offices with LIC's/paralegals reported more repeat visits and higher levels of satisfaction with time spent and work done by the office, though levels of satisfaction were high in both types of offices.

2.1.4 Future Directions for Paralegals

Members of the private bar, the LSS staff lawyers, and the LSS staff LIC's/paralegals were asked about future use of paralegals by the Legal Services Society. There was general agreement that paralegals should be used more in the future.

2.1.4.1 The Private Bar

A majority of the respondents to the survey of the private bar of British Columbia (52 percent) agreed with the statement "The Legal Services Society should make greater use of paralegals." Only 15 percent of the respondents disagreed, and none of the respondents disagreed strongly.

Lawyers who said that they were familiar with the LSS paralegal program were far more likely to agree with the idea that the LSS should make greater use of paralegals than were lawyers who said that they were not familiar with the LSS paralegal program. In this, as in other aspects of the use of paralegals, lawyers familiar with paralegals were more favorably disposed toward their utility than lawyers who were unfamiliar with them.

2.1.4.2 Staff Lawyers

LSS staff lawyers were asked whether they saw the role of LIC's/paralegals in the Legal Services Society expanding in the future. A majority (52 percent) said yes. Most of the staff lawyers who said that they did not see any expanded role for LIC's/paralegals in the future (80 percent) had no experience with LIC's/paralegals.

Seventy-five percent of the staff lawyers who had staff LIC's/paralegals in their offices said that the role of LIC's/paralegals would expand in the future. The others said that recent staff cuts had been "so obviously targetted" at LIC's/paralegals that they inferred that the LSS Head Office had decided to reduce the role of LIC's/paralegals in the future.

Half of the staff lawyers were willing to estimate the proportion of office caseload they thought could be handled by a properly supervised LIC/paralegal. On average, they thought that LIC's/paralegals could handle about 40 percent of their office's caseload. Lawyers with LIC's/paralegals in their office were more optimistic, they said that LIC's/paralegals could handle about 50 percent of the office's caseload. Lawyers without LIC's/paralegals in their offices tended to think that only about 26 percent, on average, of their caseloads could be turned over to LIC's/paralegals.

2.1.4.3 Staff LIC's/paralegals

Staff LIC's/paralegals tended to see bright future prospects for LIC's/paralegals in the Legal Services Society. Two-thirds of them thought that the role of LIC's/paralegals would be expanded in the future. Of these, 70 percent cited relative cost effectiveness as the principal reason for an expanded role in legal service delivery.

The LIC's/paralegals also described the ways in which they saw the role of paralegals expanded. Two paralegals predicted a proliferation of small, single paralegal offices located in communities where the appointment of a staff lawyer would not be cost effective. Five LIC's/paralegals predicted an expansion of LIC's/paralegals' currently restricted role as advocates, with future LIC's/paralegals routinely going to courts and tribunals as counsel of record. Three LIC's/paralegals saw the introduction of paralegals into all LSS offices in order to "humanize and demystify the law" for clients in a way that lawyers cannot seem to do.

The LIC's/paralegals were also asked what additional legal tasks they, personally, would want to take on in the near future. Their answers were quite consistent with the future LSS roles they predicted for LIC's/paralegals. Forty-seven percent said that they wanted to do more direct client representation, particularly going to court as counsel of record. One third said that they wanted to do more public legal education and more community education. Thirteen percent said that they wanted to develop expertise in new areas of law.

2.1.4.4 Summary

A majority of private lawyers, LSS staff lawyers, and LIC's/paralegals agreed that the Legal Services Society should expand the use of LIC's/paralegals in the future.

The more familiar lawyers were with LSS LIC's/paralegals, the more likely they were to think that the LSS ought to expand usage of them.

LSS staff lawyers thought that LIC's/paralegals could take over a significant proportion of office legal work. LSS staff LIC's/paralegals want to undertake more direct representation of clients before courts and tribunals, and talk of doing more public legal education and more community involvement.

2.2 Staff vs. Private Lawyers

There are two methods of delivering representation services to legal aid clients in British Columbia. Most legal aid clients receive representation from private lawyers. These private lawyers are paid under a fee-for-service tariff schedule, for criminal and family law problems. Other civil work is done on a pro bono basis by the private bar. Staff lawyers do criminal, family and civil non-family work. In most LSS offices cases are both referred to the private bar and handled by staff lawyers. With both staff and private lawyers providing representation a comparison can be made of the case outcomes for these two groups.

Any analysis of these two modes of legal representation must be interpreted carefully. It is very possible that extraneous factors may influence the outcome patterns. The process of referring a case to a private lawyer or deciding to handle it with staff counsel may not be a random event. The decision process which controls the referral process may be biased. In fact, in some interviews, staff counsel indicted that they had difficulty referring any case that was not straightforward, that staff counsel had to handle complex cases.

In this evaluation a comparison between staff and private lawyer cases was made for criminal legal aid cases using the computerized records of the LSS. Family cases were not analyzed because of the difficulty in determining the "value" that should be assigned to outcomes in family cases without talking to clients. Other civil areas of the law were not handled by private and staff counsel frequently enough to allow comparison.

The same one year time period used in the utilization analysis was used as the sample period for this comparison of legal aid cases, that is, the 12 month period immediately preceding the introduction of restraint programming on October 1, 1982.

The sample year included 33,641 criminal cases. Unfortunately, in about one-third of these cases (11,001 cases) the lawyer type could not be identified in the computerized records. For those cases in which the type of lawyer could be identified outcomes were compared. Table 3-21 shows the results of this comparison. There was a statistically significant difference in case outcomes between staff and private lawyers. Staff lawyers had a slightly higher proportion of cases resulting in a guilty plea. Private lawyers acting as legal aid counsel had slightly more cases where the client failed to appear and had slightly more guilty outcomes at trial. There was no substantial difference in the stay/withdrawal rates or the acquittal rates.

Table 3-22 highlights the different styles by which staff and private lawyers plead their clients. Clients of staff lawyers were more likely to plead guilty, while clients of private lawyers were more likely to go to trial and be found guilty at trial. These results are similar to those found in the experimental public defender project run by the LSS in 1979-81.

Table 3-23 highlights the guilty outcome rates for staff and private lawyers. There is no statistically significant difference in the proportion of clients receiving non-guilty outcomes for clients of these two categories of lawyers. From the clients' point of view it made little difference which type of lawyer represented them in terms of improving their chances of receiving a non-guilty outcome. Clients were just as likely to receive a guilty outcome when represented by a staff lawyer as when represented by a private lawyer. However, as seen from Table 3-22, there was a significant difference in the way in which the client's guilt was determined.

Table 3-24 shows the differences in sentencing patterns between the two types of lawyers. Those clients with staff lawyers were statistically more likely to receive a discharge, fine or probation. Clients with private lawyers paid for by legal aid were more likely to receive a jail sentence. In Table 3-25, the figures are collapsed to emphasize the distinction between jail and non-jail outcomes. Staff lawyer clients received jail sentences less frequently than legal aid clients represented by members of the private bar. This finding is similar to the finding in the experimental Public Defender Project.

It must be kept in mind that in an experimental project case controls are used when making comparisons. In this evaluation no statistical or experimental controls were used

TABLE 3-21

STAFF VS. NON-STAFF COMPARISON, 1982*
CASE OUTCOMES**

OUTCOME	STAFF		PRIVATE	
	N	%	N	%
Stay, Withdrawal	194	14.5%	1919	13.7%
F.T.A.	59	4.4%	993	7.1%
Acquittal/Dismissal	154	11.5%	1673	12.0%
Guilty Plea	785	58.5%	7312	52.4%
Found Guilty	148	11.0%	2002	14.3%
Other	2	.1%	61	.4%
Total	1342	100.0%	13960	100.0%

Chi square = 34.54 df = 5 sig = .0000

* For cases during the 12 month period preceding the introduction of restraint programming on October 1, 1982.

** 7338 cases were dropped from the analysis because the outcome field was blank.

TABLE 3-22

DIFFERENCES IN METHOD OF GUILT DETERMINATION

METHOD OF GUILT DETERMINATION	STAFF		PRIVATE	
Guilty Plea	785	84.1%	7312	78.5%
Found Guilty	148	15.9%	2002	21.5%
TOTAL	993		9314	

Chi square = 16.22 df = 1 sig = .0000

Table 3-23

GUILTY/NON-GUILTY OUTCOME PATTERNS
STAFF AND JUDICARE COUNSEL, 1982

OUTCOME	STAFF COUNSEL		PRIVATE COUNSEL	
Acquitted/Stay/ Withdrawal	348	27.2%	3592	27.8%
Guilty	933	72.8%	9314	72.2%
TOTAL	1281	100.0%	12906	100.0%

Chi square = .26 df = 1 sig = .61

to equate cases handled by staff and private counsel. It may be that the private lawyers handled more serious offences. It is quite possible that the staff lawyers referred out more serious cases and kept the less serious ones for themselves. However, the only evidence directly to point does not support selective referral of more serious cases. Several staff lawyers indicated they had difficulty referring complex cases which might take a lot of time. Complex cases may not involve more serious offences. The remarks of staff lawyers do not indicate that private counsel were getting less serious cases, only that the biases they were aware of did not include a bias towards referring serious cases to the private bar.

While the evaluation had no direct evidence that selective referral of serious cases occurred, the possibility should be considered. If private counsel handled the more serious criminal legal aid cases then a higher rate of incarceration for their clients could be expected.

The lower incarceration rate might also be tied to staff lawyers' greater knowledge and familiarity with the criminal court system and the people working in the system or to the fact that staff counsel cases ended in a guilty plea more frequently than private bar cases. Guilty pleas may be a mitigaing factor at sentencing.

There is a possible confounding effect that might help explain the difference in incarceration rates. Offices varied in the proportion of cases handled by staff lawyers. In particular, the Vancouver Branch Office referred almost all cases to members of the private bar. Judges in the Vancouver courts may generally incarcerate more people than judges in other courts, or crimes in Vancouver may be more serious. If either were the case, then the incarceration rate might be associated with judicial sentencing patterns or underlying crime patterns instead of or in addition to type of defence counsel.

A direct test of this last potential bias was possible. The data were reanalyzed excluding cases from Vancouver. The results of the reanalysis were similar to the initial analysis in major ways (Tables 3-26, 3-27). There was still a statistically significant difference in the outcomes of cases, though the magnitude of the difference was smaller. Staff counsel had marginally higher stay/withdrawal rates and acquittal rates and marginally lower guilty after trial rates. Coupled with that, staff

TABLE 3-24

SENTENCING OUTCOMES FOR CASES HANDLED BY STAFF AND PRIVATE COUNSEL, 1982				
	STAFF		PRIVATE	
OUTCOME	N	%	N	%
Discharge	65	7.1%	360	3.9%
Fine	303	33.1%	2458	27.0%
Probation/Sus. Sentence	262	28.6%	2122	23.3%
Jail	275	30.1%	3806	41.7%
Other	10	1.1%	372	4.1%
TOTAL	915	100.0%	9118	100.0%

Chi square = 88.47 df = 4 sig = 0.0000

TABLE 3-25

INCARCERATION RATES FOR STAFF AND JUDICARE CLIENTS				
	STAFF COUNSEL		PRIVATE COUNSEL	
Jail	275	30.1%	3806	41.7%
No Jail	640	69.9%	5312	58.3%
TOTAL	915	100.0%	9118	100.0%

Chi square = 47.07 df = 1 sig = 0.0000

TABLE 3-26

NON-VANCOUVER CASES

STAFF vs. PRIVATE COUNSEL COMPARISON, 1982
CASE OUTCOMES

OUTCOME	STAFF		PRIVATE	
	N	%	N	%
Stay/withdrawal	191	14.6	1364	13.3
F.T.A.	55	4.2	600	5.8
Acquittal/Dismissal	147	11.2	1123	10.9
Guilty Plea	771	59.0	5856	57.1
Found Guilty	141	10.8	1267	12.3
Other	2	0.2	52	0.5
TOTAL	1307	100%	10262	100%

Chi Square=13.27, d.f.=5, p=.02

TABLE 3-27

NON-VANCOUVER CASES

SENTENCING OUTCOMES FOR
STAFF AND PRIVATE CASES, 1982

OUTCOME	STAFF		PRIVATE	
	N	%	N	%
Discharge	63	7.0	235	3.4
Fine	297	33.2	1957	28.1
Probation/suspended sentence	258	28.9	1613	23.1
Jail	266	29.8	2913	41.8
Other	10	1.1	256	3.7
TOTAL	895	100%	6974	100%

Chi Square = 90.18, d.f. = 4, p = .0000

counsel had marginally higher guilty plea rates. But, as with the full provincial data, there was no overall difference when guilty outcomes were compared with non-guilty outcomes.

The major pattern of lower incarceration rates for persons represented by staff counsel was still evident even when Vancouver cases were excluded from the analysis (Table 3-27). Just under 30% of staff counsel clients were incarcerated after being found or pleading guilty. Almost 42% of private counsel legal aid clients were incarcerated. The pattern of lower incarceration rates is a provincial matter.

SUMMARY

Staff counsel across the province seemed to have more success in getting their clients non-incarcerative sentences and seem to go to trial less often than private counsel, particularly private counsel in Vancouver, representing legal aid clients. These results are similar to those found in an experimental public defender office which was operated by the LSS and evaluated during 1979-1981. While there were similarities in the results, the lack of case controls in the analysis should be considered before concluding that the public defender results have been completely replicated.

The analysis in the evaluation involved processing LSS computerized records. There were no statistical or administrative controls imposed on offices in assigning cases to members of the private bar or in keeping cases in-house. It could be that there was an administrative bias and that staff in LSS offices referred the more difficult, serious cases to the private bar, raising the likelihood that the results would involve a jail term. While the evaluation had no information indicating that this happened, it is a possibility and should be considered.

Second, private bar referral patterns are not equivalent across the province. Some offices refer out a higher proportion of cases than others. Differences in outcomes may, therefore, just reflect differences in sentencing practices between courts.

While there are methodological limits on the analysis, the large difference in incarceration rates (11-12%) has massive downstream correctional cost implications as well as massive personal consequences for clients. The LSS should further explore the sources of the difference. With their new information system it should be relatively straightforward to randomly assign some cases to staff and private counsel in a range of offices to see if the varying incarceration rate was produced by a biased referral pattern, court differences or by differences in how staff and private counsel handle cases.

CONCLUSIONS

The Legal Services Society is an extremely complex organization under severe pressure from reduced budgets, and with high levels of uncertainty about its future. Even in this state of flux and uncertainty the evaluation was able to uncover some characteristics of the organization and its delivery of services which existed prior to and during restraint and which are likely to continue in the future unless changes are made.

The LSS is a hybrid organization, formed by a 1979 merger of two very distinct organizations: The Legal Aid Society and the Legal Services Commission. The Legal Aid Society provided legal aid plan services and other direct client services through a network of Branch Offices with legal staff. The Legal Services Commission was an umbrella funding source for many direct and indirect legal services. Among other things, it funded a network of Community Law Offices with paralegals who provided advice and information services. From these two organizations the LSS inherited orientations towards both direct and indirect client services, a complex network of offices and diversified mechanisms for funding legal aid.

Since the merger there has been some movement towards the transformation of the pre-merger Legal Aid Society offices, and the Community Law Offices funded by the Legal Services Commission into distinctive LSS local service offices. These post-merger offices usually have staff lawyers and paralegals and provide a relatively balanced mix of criminal law, family law and other civil law services.

Even with this movement towards combined offices, the LSS is still diversified and decentralized in both its service delivery and its decision-making about service delivery. Even given this general pattern of decentralization, there are centrally defined procedures for determining who receives legal aid. These procedures appear to be fairly applied across the various LSS service offices. The recent pressures of reduced budgets have led the LSS to make these rules more explicit and to increase the volume of central decision-making within the organization.

The diversified nature of the LSS office structure, both those offices run directly by the LSS and those funded through contracts, and the general level of funding of the LSS have helped produce an uneven pattern of legal aid delivery in British Columbia. Whether a person receives legal aid in British Columbia does not depend only on whether that person has a problem covered by legal aid and is financially eligible for legal aid but also on where that person lives in the province. Services are not uniformly accessible. When they are available they are well received and apparently of good quality, but they are not equally available across the province.

There appear to be three major holes in the network for delivering services. The major holes are: the provision of services to rural areas; the provision of civil non-family services; and the provision of criminal legal aid services. With a few exceptions, areas of the province not served by offices have very low legal aid utilization rates. The LSS uses members of the private bar, called Area Directors, to take applications for legal aid in many small communities of the province. The LSS also sends staff out on circuit to serve other small communities. Twenty-seven percent of the population in British Columbia is served by Area Directors and circuits. These people generate less than 10% of the demand for services. People living in areas without offices have less access to legal aid.

In particular, the utilization of civil non-family services is tied almost exclusively to the presence of offices and most closely to the new post-merger offices or the Community Law Offices inherited from the Legal Services Commission. In many areas of the province people effectively receive no civil non-family services.

There are holes in the delivery of criminal legal aid plan services as well. Criminal legal aid is not uniformly accessible across the province. When services are available they are tied to the presence of offices and staff and to the presence of a strong courtworker referral system. Where offices are not present, persons generally receive a much lower level of service, or none at all.

The Legal Services Society is both a proactive and reactive organization. It is a service-oriented organization with a network of offices which provide, almost exclusively, direct client services to persons coming through the door. The local service offices respond to requests for service. Little time is spent by these offices in proactive activities such as community development, law reform or even public legal education. Even the Community Law Offices, which come out of a more proactive neighborhood law firm tradition, spend almost all their time on direct client services. Proactivity within the LSS comes almost exclusively from central functions run out of Head Office.

The LSS Head Office has a series of outreach programs and indirect client services, such as a library program and schools program. The diversification and decentralization of the LSS has not led to much local innovation or local outreach activities.

The direct client services that are provided by the offices, however, are well received by clients. Clients are satisfied and see legal aid as having a positive impact. The LSS offices seem to provide good services to rejected applicants as well. Most rejected applicants are referred to other sources of help and most follow through on the referral given by the LSS office. The ways in which LSS local service offices fit into local referral networks is a major strength of the system.

The reach of the system, however, appears to be limited by the presence of offices and the awareness of potential applicants of the availability and the perception of the utility of legal aid. While the evaluation was only able to begin to investigate the reach of the legal aid system, there is clear room for improvement, particularly in the criminal and civil non-family problem areas.

Discussion of the reach of the legal aid system, the holes in the delivery network and the importance of the presence of offices and staff has obvious cost implications. Actions which increase accessibility involve increased expenditures, an unlikely prospect during a period of fiscal restraint even though strong arguments can be made for the proposition that the LSS needs increased resources in order to meet its obligations under its enabling legislation. Even if the range of services provided through legal aid were restricted, the LSS needs more resources to deliver them equitably.

Under the current enabling legislation, the Legal Services Society must provide criminal legal aid services and family legal aid services for a variety of specific problems. In these instances, legal aid is a statutory right. The LSS treats civil non-family legal aid more as a need with services provided when staff are available or by the private bar on a pro bono basis. The general long term movement in all western nations, Canada included, is toward a broader definition of legal aid rights. The short term trend in British Columbia toward reduced services is not dissimilar to short term trends in the United States and Britain. The long term trend, however, is towards more statutorally defined rights, and in Canada, perhaps, toward Charter defined rights.

Overall the strength of direct client legal aid in British Columbia seems to be the services actually provided. Staff counsel, in particular, appear to provide excellent criminal legal aid services, and obtain very low incarceration rates for their clients. The weaknesses of the system are tied to the limited nature of services in many communities. The legal aid network functions well where it exists with an office base, but is thin or non-existent elsewhere.

RECOMMENDATIONS

The evaluation results lead to a series of recommendations, some of which require increased resources; others do not. Some recommendations, if followed, might even reduce costs. All recommendations are based on the premise that the equitable provision of the legal aid services defined in the Legal Services Society enabling legislation is the goal of the legal aid system in British Columbia. Some recommendations even apply if the range of services is reduced, as long as the goal of equitable provision of services is maintained.

RECOMMENDATION 1 - IMPROVE SERVICES TO SMALL COMMUNITIES AND RURAL AREAS

Small communities and rural areas of British Columbia are under served by the LSS. Providing services to rural areas is potentially very expensive. The current Area Director system is not sufficient. It is recommended that the government provide a large fund for experimenting with mechanisms for providing cost-effective services to rural areas. It is not within the fiscal means of the LSS to develop better ways of providing rural services. The most natural source of such funds is the federal government since the results of such research would address problems of legal aid delivery in many parts of Canada.

RECOMMENDATION 2 - IMPROVE DUTY COUNSEL SERVICES

Under the current system duty counsel services are available to persons arrested and kept in custody. Duty counsel meet the accused prior to court appearance and act for the accused at the bail hearing. If time permits, duty counsel may provide services to unrepresented accused who are not in custody. The actual detailed pattern of duty counsel services varies from court to court. Since criminal legal aid services are not equally available across the province, coverage might be greatly improved if duty counsel services were expanded and duty counsel were given added responsibility to take applications for legal aid or screen persons appearing at court for legal aid eligibility. Such a change of duties might require increasing the number of persons providing duty counsel in a court or sending a secretary/legal assistant along with the lawyer who is acting as duty counsel.

RECOMMENDATION 3 - EXPAND AND EVALUATE COURTWORKER SERVICES

The utilization of criminal legal aid is heavily dependent on referrals from non-Legal Services Society courtworker services such as the Native Courtworkers, the Salvation Army and the Elizabeth Fry Society. These services have a clear and important function in the legal aid system. They may be a cost-effective way of helping to ensure that persons eligible for criminal legal aid receive it. These services should be evaluated for their cost-effectiveness as funnels to legal aid, and expanded if the results are positive. Such a move is beyond the mandate of the Legal Services Society, but should be undertaken by the federal or provincial government in conjunction with the courtworker services.

RECOMMENDATION 4 - EXPAND CIVIL LEGAL AID

Civil non-family legal aid, in particular, is not distributed equitably across the province. It is available primarily where offices are located and mostly from Community Law Offices or post-merger CLO/AD offices. If the Legal Services Society is committed to the provision of civil legal aid it must develop mechanisms to make it more available. Possible mechanisms include using more paralegals or mandating to staff lawyers the types of cases they should handle. With the decentralized structure of the LSS, procedures would have to be developed to ensure compliance if staff were required to do more civil non-family work. In either case, if criminal and family services were maintained, expanded civil non-family services would require increased resources.

RECOMMENDATION 5 - IMPROVE OFFICE ACCESSIBILITY

Service levels drop rapidly between communities with offices and those without. Even in communities with offices, the accessibility of those offices varies greatly. There are several things the LSS could do to improve the general accessibility of its offices. Office signs are sometimes difficult to see or even find. Signs frequently contain no information that would indicate that legal aid or even that legal services are available. Office hours are sometimes limited. Most offices close at lunch and few have evening or weekend hours. The offices are generally inaccessible to the working poor. They are closed when people are off work. Wheelchair access is not good in many offices. There is definite room for improvement in signage, office hours, and handicapped access.

RECOMMENDATION 6 - INCREASE LOCAL RESPONSIBILITY FOR SERVICES

As it exists now, local offices serve the community in which they are located and those persons from other communities who travel to the office. Head Office maintains a circuit for some remote communities. Several local offices have developed their own local circuits to bring legal aid to remote communities within self-defined service areas. The LSS has not, however, divided the province into service regions and assigned responsibility for bringing services to the people within them. With the mixture of office types, some of them on contract, it would not necessarily be easy to develop local responsibility centres. Division of the province into service regions and formalization of responsibility for bringing services to people within these regions, difficult as it would be, might go a long way towards filling the holes in the delivery network.

RECOMMENDATION 7 - INVESTIGATE STAFF-HANDLED LEGAL AID CASES

In an analysis of about 15000 criminal legal aid cases, the evaluation found a dramatic difference between the incarceration rates for clients represented by staff counsel and those represented by members of the private bar. While staff counsel clients and private counsel clients have the same guilty outcome rates, staff counsel client incarceration rates are 12 percent below private counsel client incarceration rates. The analysis of cases was not an "experiment". There may be differences between the cases handled by staff lawyers and the private bar which produced the differences in incarceration rates. The private bar may handle more serious cases. While the evaluation could not statistically control for the differences between staff and private cases, the large difference in incarceration rates warrants further investigation. The LSS should consider, at a minimum, a detailed provincial analysis of criminal legal aid cases handled by staff lawyers and members of the private bar which compares outcomes for specific charged offences. If differences are still found the LSS should consider a general province-wide experiment in which it randomly assigns some cases to staff counsel and some to members of the private bar in order to determine, in a scientifically controlled sense, whether there are true differences in the outcomes of cases retained in office and referred on tariff to private counsel.

RECOMMENDATION 8 - REVIEW SKILLS AND TRAINING OF PARALEGALS

> The evaluation found that paralegals engage in wide-ranging activities. They are the mainstay of the civil legal aid system. The paralegals voice concerns about their level of training. While the LSS appears to have a well developed training program, it is not directed solely to paralegals and legal information counsellors and is not mandatory. The LSS should review its training program in light of the concerns of paralegals and consider alternative training methods or, alternatively, consider development of procedures for testing paralegals' skill levels to determine who needs training and in what areas training is needed. The Board may wish to reconsider its policy that training is not mandatory. It should be noted that lawyers supervising paralegals' work generally found it to be quite good.

These recommendations should be interpreted from the perspective of the whole evaluation. The evaluation found that the LSS is doing a very good job of providing services within the limitations of the resources available to it. The legal aid system in British Columbia cannot, however, be considered complete. There are areas of the province where few services are available. The delivery of services must be broadened to produce an equitable legal aid system.